RESTRUCTURING THE SCHOOL SYSTEM

An Act respecting Public Elementary and Secondary Education (Bill 40)

In order to pursue its study on school confessionality and structures, the Conseil formed a committee whose members are as follows:

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SECRETARY AND COORDINATOR OF THE COMMITTEE

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The Committee prepared a number of hypotheses, all of which were studied by the Conseil. Most of the committee members participated throughout in the steps leading to the Conseil's adoption of the present advice concerning restructuring the school system.

Advice adopted at the 287th meeting of the
Conseil supérieur de l'éducation
September 22nd, 1983

ISBN 2-550-07339-8
Dépôt légal: 2e trimestre 1984
Bibliothèque nationale du Québec

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INTRODUCTION

In August 1981, the Conseil made public its report on school confessionality[1]. In the report, the Conseil took note of the expectations of the population and made recommendations to the ministre de l'Education. The Conseil approached the question of confessionality through the educational experience of the schools. One finding emerged from this study: attitudes vary according to whether emphasis is placed on the pragmatic aspect of life at school, without concern for organizational structures, or whether emphasis is placed instead on these structures. For its part, the Conseil felt it essential to pursue the study[2] on confessionality, taking organizational structures into account because the latter are not without impact upon life at school: structures can affect educational activity positively or negatively. The Conseil's present study will concern the entire plan to restructure the school system.

In its previous recommendations, the Conseil proposed that changes be allowed which would take into account the situation in the schools. It pointed out that as far as the educational and confessional experience of the schools was concerned, people expressec the need to go through changes in a gradual manner. The Conseil therefore suggested experimenting

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1. The Conseil supérieur de l'éducation's study on school confessionality, entitled «Confessionality and the Schools of Québec», recommendation to the ministre de l'Education, adopted at the 252nd meeting of the Conseil, August 27, 1981.

2. Ibid., p. 25

further with pluralism[3] in those schools where diversity warranted it and that in this manner various ways of living in confessional and non-confessional schools be encouraged.

Bill 40 entails important modifications from the point of view of organizational structures. In june 1982, a White Paper entitled The Québec School, a Responsible Force in the Community was published. The White Paper, proposing a complete reform of the organizational structure of the Québec school system, was, for one year, the subject of an intensive information campaign. In June 1983, Bill 40 gave legal expression to the idea of restructuring the school system as outlined in the White Paper.

Between August 1981 and June 1983, viewpoints concerning confessional and organizational structure changed, as also did some attitudes. There has been a certain rapprochement among the various participants in our education system with respect to these matters.

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3. Ibid., p. 39: «That all the parties to the education question, the government, school and church authorities make the establishing of «pluralist» or «confessional shared» schools possible, where local communities so desire and this, in the two existing school sectors, particularly in the areas of Montreal and Québec».

   This pluralism, which appeared in the course of its study of school confessionality, was observed by the Conseil in the educational experience of the schools. The Conseil analyzed it in its 1981-1982 Annual Report on L'Activité pédagogique. Educational methods are not identical in all schools in Québec. Even though teaching, as a general rule, is systematic and traditional, many educators and teachers favor an open style of teaching or take a «consciousness-raising» approach, which is more critical of society. The important phenomenon is that absolute ideologies based on all or nothing, on black or white, no longer hold. School life, already strongly characterized by religious pluralism, is also characterized by marked pluralism in educational methods.

   See: Conseil supérieur de l'éducation, L'activité pédagogique, pratiques actuelles et avenues de renouveau, (Pédagogical Activity, Present Practives and Avenues of Revival, Annual Report 1981-1982, Vol. II.

It is impossible to fully appreciate all the implications of the plan before receiving and studying the regulations which are to follow the Act Respecting Elementary and Secondary Public Education, once it has been sanctioned. However, the basic intentions of the governmental plan appear sufficiently detailed in the Bill, and it is on this basis that the Conseil will now make its position known.

For this purpose, the Conseil will take into account the origins of the present school system as well as the ideas behind it, as expressed in the recommendations of the Royal Commission of Inquiry on Education (The Parent Report 1961-1966). The Conseil will also take into account the evolution of the school system, particularly in its confessional and linguistic aspects, these being at the core of the present Bill. Finally, the Conseil will examine the plan to restructure the school system in terms of broader objectives, concerning the education sector and society as a whole.

The Conseil's present advice is based on numerous consultations with various groups and participants in the school system as well as on studies concerning school confessionality and organizational structure. Despite an atmosphere which hardly favored consultation, in view of the radicalization of many positions and the conflicts that were exarcerbated by public sector negotiations, the Conseil managed to hold some very useful hearings. It met most of the organizations and associations affected by the plan to restructure the school system. Its consultations allowed it to receive well-documented briefs and to engage in valuable discussions. These briefs, which were drafted in response to a questionnaire the Conseil had drawn up, in many cases enabled their authors to go beyond the defense of a particular point of view, and to engage in a rigorous and comprehensive analysis of the present school system and the proposed future system.

In the first Part of this study, the Conseil will present the main questions raised during its consultations. In the second Part of the study, the Conseil will examine five major aspects of the plan for school reform and take a stand on each one. The third Part will concern implementation of the plan and some aspects of concordance between the new Bill and existing legislation.

PART ONE

GENERAL ASPECTS OF THE GOVERNMENT'S PROPOSAL

General aspects of the government's proposal

It is difficult to assess all the short and long-term implications of Bill 40 without studying it in relation to the White Paper. In turn, the White Paper itself is linked to past school reforms involving both organizational structures and educational methods.

CHAPTER 1 : Was a reform of organizational structure necessary? - the government's response

Structural reform

According to the White Paper, shcool reform has consisted first and foremost of a reform of organizational structures. The high point of structural reform was the creation of the ministère de l'Education, closely followed by the setting up of regional school boards and comprehensive secondary schools[4]. The White Paper further pointed out that reform of the education system has been the story of a series of repeated and unsuccessful attempts at school restructuring particularly on the Island of Montreal. After reviewing these numerous attempts and discussing Bill 71 (1972[5]), it concludes as follows: «More than ten years after the Parent Report, the problem of school restructuring of the Montreal Island which has long been considered pressing, still had not been resolved in a wholly satisfactory manner[6].» Finally, the reform of the education system has in large part been the story of the rearrangement of the structures and powers of all the school boards.

This reorganization has altered the school boards' financial system to such an extent that the school boards are now «more accountable for their management of public funds to the government which subsidizes them than to the local and regional populations whose taxes they collect directly». According to the White Paper, the school boards are «intermediate levels of public administration, exercising their powers of decision-making and management within the general parameters of the government's budget for education[7]».

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[4] Gouvernement du Québec, ministère de l'Education, The Québec School, a Responsible Force in the Community, 1982 page 7: quotations from the White Paper will hereafter be made as follows: White Paper and page.

[5] «An Act to Promote School Development on Montreal Island» (S.Q. ch.60).

[6] White Paper, p. 10.

The White Paper also stresses that the present education system maintains the confusion between the criteria of linguistic and religious adherence[8], considering the confessional character of the entire school system.

Pedagogical Reform

School reform, while first and foremost a reform of structures, is also characterized by pedagogical renewal culminating in Schools of Québec[9]. According to the White Paper, this policy statement would «put the emphasis, in educational reform, on the quality of teaching and learning processes rather than on a restructuring of the system[10]».

Schools of Québec led to a renewal of the education policy and regulations or «régimes pédagogiques» at the pre-school, elementary and secondary level[11]. The White Paper considers these regulations respecting the «régimes» to be at the core of the pedagogical renewal[12]. This is

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7. Ibid. pp. 11 and 12. Government subsidies represent 94% of school board financing. No more than 6% of the school boards' incomes may come from taxation (or 0,25$ per 100$ of evaluation) unless authorized by the population through a referendum.

8. Ibid. p. 26.

9. Gouvernement du Québec, ministère de l'Education, Schools of Québec, Policy Statement and Plan of Action, Québec Official Printer, 1979, 163 p.

10. White Paper, p. 12.

11. Gouvernement du Québec, ministère de l'Education, Direction générale du développement pédagogique, April 1981, Regulation respecting the Basis of Elementary School and Pre-School Organization and Regulation respecting the Basis of Secondary School Organization.

undoubtedly why they appear in the first sections of the proposed Bill. In fact, the 1981 regulations specify the education services to be provided by the school: teaching services, i.e. curricula, textbooks, teaching material, evaluation of pupils and curricula; the pupil personal services[13] to be provided by the ministère de l'Education and the other services to be provided by other departments; the auxiliary services[14] to be provided, such as support, supervision and organization of student activities; and a variety of special services to be provided for various categories of students. These regulations also establish the basis of school organization respecting admission and enrolment, pupils' school calendars, prescribed timetable for subjects taught, breakdown of subjects and allocation of time devoted to realizing program objectives.

The «régimes pédagogiques» and everything they will bring about in the coming years, in particular the implementation of the new programs up to 1986, constitute a pedagogical whole in the process of being realized. The White Paper itself acknowledges this[15]. However, the White Paper at the same time states that the pedagogical renewal now under way has already helped increase the notion of the centrality of the school[16]. Today, according to the White Paper, the improved quality of education in the schools may encounter obstacles at the level of the school structures and in relation to the division of powers in decision-making and control, and the «rules of the game» of the present school system.

Obstacles to Overcome

The White Paper enumerates obstacles which it says may stem from both the present school structures and the attitudes of the various participants in the education system.

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[13] It is to be noted that the Bill modifies the definition of these services as they appear in the regulations respecting the «régimes pédagogiques». Henceforth, the services are called «individual auxiliary services» and «group auxiliary services».

[14] See Bill, sects. 4, 5, 6.

[15] White Paper, p. 13.

[16] Ibid.

According to the White Paper, the ministère de l'Education is overly inclined to set out rules and norms making its administration cumbersome and slow. The White Paper considers the school boards' concerns being «often more of an administrative rather than of a pedagogical nature[17]». They are viewed as being too compartmentalized with respect to teaching levels and their territories overlap, particularly on the Island of Montreal.

As for the schools, the White Paper considers them to be suffering from instability due to the collective agreements and the administrative decisions of the school boards concerning the remaining open or closing down of the schools. Their size is sometimes excessive. School transportation is inadequate. In short, the school is seen to be hindered in the pursuit of its education project, particularly because of the following problems: the limited autonomy and weak decision-making powers given to the school, the limited character of democratic life within the school itself, the lack of control by parents and local communities over the orientations and day-to-day life at the school and the difficulty for the school to be a center for community services.

The government's response

If the pedagogical renewal outlined in Schools of Québec is to be realized mainly in the school, and if it is a fact that «the school is stymied and does not really have means commensurate with its responsibilities[18]», it then becomes urgent that a reform of school structures take place. In order to meet its pedagogical objectives, the government is proposing a form of restructuring of the school system which promotes specific goals, namely reasserting the centrality of the school and giving it more responsibility, an overriding concern being the participation of parents and other participants having close ties with the school. A redistribution of powers should ensure that the schools assume greater responsibility; such a redistribution should also ensure greater participation, by decentralizing in favor of the school and transferring to it prerogatives heretofore belonging to other institutions in the system: the school boards and the Ministère de l'Education.

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[17] White Paper, p. 26.

[18] White Paper, p. 25.

Such is, broadly speaking, the government's answer to the initial question: «was a reform of structures necessary?» According to the White Paper, pedagogical renewal is no longer possible without reforming structures. This argument is based on the importance given to the school in such renewal and on the contribution of the main participants, notably the teachers, upon whom rests the daily task of putting the pedagogical renewal into effect.

The question raised by the government's proposition must however the better defined. These questions were partly broached during the Conseil's consultations. In the end, they consist in putting the ways and means set out in the plan to restructure the school system into a perspective encompassing the ends of the education system.

CHAPTER 2 : Some Important Questions Arising from the Conseil's Consultations

Pedagogical Development and Structural Reform

. The new Education Policy and its Regulations

During the Conseil's consultations, several participants raised the question of the education policy and its accompanying regulations. It seemed as if the plan to restructure the school system allowed a better understanding of the impact of the governmental regulations[19] on the proposed reorganization of school and school board responsibilities with respect to educational methods. For Anglophones, the expression of this governmental responsibility appeared as an unwarranted takeover, viewed as dangerous for their cultural identity. For Francophones, the education policy and regulations were criticized from a different viewpoint: what was questioned was their consequences on life in the school; they wished to be better equipped so as to meet the new requirements of the new programs.

Observations of the Conseil: Operation «Specification of Programs» which is at the core of the 1981 education policy regulations is a turning point in the recent history of pedagogical practice[20]. The situation has changed from one where basic programs contained objectives that were too broad and imprecise, to one where the objectives and compulsory content of the programs have become, to a large extent, specific. This was the answer given to repeated demands by the population, as well as to certain wishes expressed by educators.

The basic programs were intended to allow the school communities to take charge more fully, by elaborating so-called institution-level programs.

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[19] Nota bene: the education policy or «régimes pédagogiques» is established by government regulation.

[20] See L'activité pédagogique (Pedagogical Activity), pp. 32-34.

This objective was reached in certain communities only. The new programs, developed on the basis of the 1981 education policy regulations, tend to create greater uniformity by identifying what is now generally called «pedagogical margins of manoeuver[21]». Uniformization of the new curricula, however, does not preclude a certain diversity in daily practice. Opération «Specification of Programs» cannot be qualified as a backward movement. The old «catalogue-type» programs, too exclusively content-oriented, which were replaced by basic programs, are not making a reappearance under the guise of new programs. On the contrary, the latter will stress henceforth learning skills without at the same time encouraging conformism or uniformity[22].

- A «pedagogical whole» in the Process of Being Achieved

The question which arises upon examination of pedagogical development and everything that has resulted from these new education policy regulations is the following: is there no limit to the capacity of adaptation to change of the various school communities? The groups consulted reminded us that the same persons must: implement the new programs, apply the policies expressed in the regulations, comply with the various ministerial directives[23] and, in the near future, adjust to restructuring of the school system. As a consequence, the groups consulted insist, more than the governmental plan does, on the necessity of gradual change in order to facilitate the pedagogical renewal presently under way.

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[21] It is important to note that the education policy leaves room for local programs provided the latter are approved by the Ministre. See section 18 of the elementary level and section 3 for the secondary level, in the 1981 regulations respecting education policy.

[22] In order to avoid that the learning process become a catalogue of skills, it is important to increasingly publicize the margins of manoeuver allowed by the education policy, See L'activité pédagogique (Pedagogical Activity), pp. 138-140.

[23] For example, see the document entitled Instructions, année scolaire 1982-1983 from the general secretariat of the Direction générale des réseaux, pre-school, elementary and secondary sectors, as amended 1982-05-02. One may count more than 100 directives on educational, auxiliary and management activities.

Observations of the Conseil: At the very beginning of the present study, reference was made to a previous study in which the Conseil proposed a form of change centered on school experience. The Conseil is therefore sensitive to the remarks of the groups it has consulted. These groups question the government's proposal as to the feasability of its serving the pedagogical renewal now under way while at the same time proceeding to basically restructure the schools. The present requirements of pedagogical activity, as observed in the schools and analyzed in the Conseil's 1981-1982 Report, prompt all concerned to see to it that the changes brought about in organizational structures do not conflict with the efforts being made at the pedagogical level.

However, bearing in mind the argument of necessity, as put forward by the White Paper, the commentaries of the groups consulted do not affect per se the basic orientation of the plan to restructure the school system which is to give the schools greater responsibility. It will remain to check closely, in Part Two, to what extent the educational responsibility of the school may be assisted or, on the contrary, burdened by exercising the functions defined in the Bill.

Participation and School Democracy

A reading of the White Paper raises the question of participation of the persons mainly concerned as well as their role in asserting the centrality of the school and in giving it greater responsibility. Is everyone's position clearly defined in relation to the school, to the other participants and to pedagogical renewal, which calls for service, not disservice? More specifically, are the teachers given the place which clearly should be theirs? This essential characteristic, teacher participation, is emphasized. Whatever the status given to the school, whatever the role expected of the parents and the school principal, it is felt that the teachers play the leading role in pedagogical life in the school. It is to be deplored that the government's plan remains quite reserved in this regard.

Observations of the Conseil: A study[24] made by the Conseil in 1978 shows that there stands at the forefront of educational life at the school a group of participants made up of parents, teachers and school principals. In this connection, the attitude of parents is a constant one: it is the parents' desire to participate in the school education of their children «with» and not «against» the teachers. This finding is corroborated by the consultations made in connection with the plan for restructuring the school system. And the 1981-1982 Annual Report has already demonstrated how the teachers are essential participants in pedagogical activity[25]. In this regard, the Conseil went even further and declared itseld in favor of teachers participating in administration. It recommended: «That on certain pedagogical questions, to be determined between the parties, the teachers be granted a right of co-decision, the school administration having to justify its opposition in case of dissent[26]». Administrative participation by the teachers could even «lead to full autonomy of the teachers in fields such as adaptation of programs and choice of teaching materials».

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[24] Conseil supérieur de l'éducation, Direction de la recherche, La participation des parents dans les comités d'école (Parent Participation in the School Committees) Québec 1980, Part 14, Summary of the report. See in particular pp. 24, 85,86. This study is, in a certain way, corroborated by the orientations expressed at the convention of the Fédération des comités de parents du Québec (December 1982) and at its annual meeting (March 1983). See annex to the convention report, pp. 17-24.

[25] L'activité pédagogique, see in particular pp. 129-135.

[26] Conseil supérieur de l'éducation, Improving Collective Agreements, advice to the ministre de l'Education, February 1982, p. 17.

The government's plan should therefore bring out the role of the «teachers and school team[27] » in the same way as it brings out the role of the school principal. Instead of giving the teachers the place they deserve, the Bill shows the same reserve as the White Paper.

When dealing with the subject of consultation on pedagogical matters, the Bill confers on teachers a position equal to that of students and parents[28]. For the remainder, teachers are viewed as employees who may, if they wish, participate in the orientations and decisions of the school council[29]. The Conseil will therefore, in the Second Part of the present study, suggest amending the Bill in order to give back to teachers their proper place in the school.

Institutional Powers and the Education Policy

It appears from the consultations held by the Conseil that the idea of participatory democracy has all but been replaced by the idea of power[30]. The very word at first prompts a reflex of fear within the ranks of all groups consulted: an attitude of withdrawal on the part of parents, an attitude of prudence on the part of the other participants. There is a feeling that «power» is being taken away from one group to be given to another.

However, once a proper analysis of the powers involved has been made, it is found that, in fact, only «margins of manoeuver» are being displaced from one place to another within the system. Thereupon, attitudes become different: as far as the parents who expect to assume new powers are concerned, some demand that the transfer of powers be accompanied by measures of support and financial compensation while others are skeptical about whether there will be enough volunteers; other participants denounce the whole plan as a sham: for example, transfering teaching powers, which are already considerably reduced, would only further weaken such powers by taking them away from the school boards and passing them over to the schools. All groups join together in denouncing the party which is attempting to divide power, without however abandoning any part of its own power, the ministère de l'Education.

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[27] Paul Tremblay, «Le livre blanc sur l'école: par quelle anse le prendre?» (The White Paper on the School: what Angle to Approach it From?), in Relations No. 484, October 1982, p. 256.

[28] See Bill, sect. 66, 69 and 72.

[29] See Bill, composition of school council, sect. 39, 40.

[30] It will be acknowledged that the government's information campaign and the documentation to support it inclined one to speak of school restructuring in terms of power rather than in terms of participation. The Bill avoids this ambush and uses the term «function».

Observations of the Conseil: When the question of redistribution of powers and responsibilities given to persons is raised, parents are at the center of discussion. As a matter of fact, teachers have always been considered as the experts in pedagogy and school principals as the leaders of pedagogical activity. In this respect, parents have been left standing on the sidelines for a long time. It is therefore not suprising that parents at present appear somewhat apprehensive about resolutely taking charge of the share of responsibility which is theirs, as of right.

It reference is made to the conventions and meetings of parents following the announcement of the government's plan for restructuring the school system, it will be seen that parents remain consistent in the attitudes that the Conseil observed in its 1978 inquiry[31]: they wish to participate fully in the decision-making process at school without, however, wanting to supplant the teachers to whom they entrust their children. They do not intend to become absolute masters of the school. But they increasingly wish to participate fully at the pedagogical level[32].

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[31] The Conseil's study on La participation des parents dans les comités d'école (Parent Participation in School Committees) revealed that the parents of 1978 wished to participate in the decision-making process in a proportion of 1 to 3 (34.3%) at the administrative level and in the proportion of 38.7% at the pedagogical level. At the same time, 78.8% of the respondent wished to participate fully at the pedagogical level and 69.0% at the administrative level. Op. cit., pp. 51-65.

At their general assembly in March 1983, the delegates of the Fédération des comités de parents du Québec voted by a majority in favor of decentralizing power in the direction of the school.

. Educational Projects in the School

The word «power», joined to particular educational projects developed in the schools as part of the educational policy, runs the risk of perpetuating an ambiguity and an illusion which the persons and groups consulted by the Conseil did not fail to point out. The ambiguity consists in letting people believe that a particular educational project may consist of no more than the sum of duties and obligations assigned to the school council; the illusion consists in believing that the «idea» of the school-level educational project will gain wider acceptance if hung to a nail called «power». The concept of the educational project, which has generally been recognized since the Green Paper on Primary and Secondary Teaching in Québec[33], is still a cause of much reticence in school communities. Many fear that the concept might be used as a political gadget or might be a pretext for meaningless verbal inflation. While it is unjustifiable to apply the expression «educational project» exclusively to those undertakings which bring about a complete rearrangement of community values, it is equally undesirable to identify any kind of planned activity as an «educational project».

Observation of the Conseil: the educational project, as perceived through the experience of the schools[34], is a reality resulting from the patient building up of consensuses within the school which, in this way, is transformed into an educational community. The school is not, by statute, an «educational community»: it grows into one. The educational activity of the school becomes a project when, at the instigation of the teachers, the principal, the parents or all three together, there is common agreement to develop such aspects of educational activity as correspond better to the expectations of a given community or answer to its particular problems. The realization of an educational project in a school is a sign that a living «tradition» is at work, that ongoing patterns are being established, perhaps slowly but always full of life and meaning for the children and the various participants in educational activity at the school.

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[32] This finding is not so much the result of statistical analysis but rather the tendency shown by the parents at the convention of La Fédération des comités de parents (December 1982). The majority of parents show a willingness to become involved in school pegagogy, yet wonder about how they can best participate. (See accompanying document, ref. cit., pp. 6-9).

[33] Gouvernement du Québec, ministère de l'Education, Québec official Printer, 1977.

Such a project can develop fully without a text of law. However, it requires the means as well as favorable conditions to come into being and grow; the Conseil made this point clearly in its 1981-1982 Annual Report[35]. These are the conditions under which the proposed law, as a follow-up to the White Paper, can, in a certain way, provide guidelines to assist in the realization of educational projects in the schools. A more detailed analysis in Part Two will show to what extent the text of law can assist educational activity in the day-to-day life at the school, while avoiding the danger pointed out during the consultations: reducing the educational project to administrative and pedagogical management.

The School: Extension of the Family and Service to Society

During the Conseil's consultations, both individuals and groups raised questions which in one way or another went beyond the single question of restructuring the school system. These questions led to an even more fundamental question: what conception of the school as a place for education lies behind the statements on reasserting the centrality of the school, on the school-level education projects, on the involvement of parents and other participants in the schools and, finally, on the redistribution of powers within the school system?

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[34] See experiences reported in two books published by the Ministère de l'Education Le projet éducatif dans quelques écoles primaires et Le projet éducatif dans quelques écoles seocndaires, reports of observations, Québec 1980.

[35] L'activité pédagogique, pp. 129 ff.

Observations of the Conseil: When proposing aims and objectives for education at school of children and adolescents, The Schools of Québec[36] clearly demonstrated that there existed at the same time a «continuity» and a «discontinuity» involving school and family. There is a continuity: a child's basic learning occurs through experience acquired for the most part within his or her family, whatever its type. There is also a discontinuity: the systematic teaching given in the school renders the spontaneous learning acquired at home open to other values, being those of society. This discontinuity, without in any way minimizing the importance of the parents, requires the presence of other educators, especially teachers. In this sense, the school helps introduce children into a larger community than that of the family.

In its proposed law, the government opted for a school which will further ensure involvement of the family, and for a school board which will be more oriented towards serving society. In its recommendations contained in Part Two of the present study, the Conseil will indicate how these two dimensions can be present in school education, at the school level and at the school board, as both are jointly concerned in the pursuit of common educational objectives.

The Ends of Education: A priority

Before engaging in the study of the main sections of the Bill, it seems proper to draw attention to a view of the school and school education which stems as much from previous stands the Conseil has taken as from testimonies heard during the Conseil's consultations. A certain number of guidelines are associated with this view. Although obvious at first, the guidelines often become less so when subjected to the constraints of structures.

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[36] Chapter 2.

First, let it be recalled that the child[37] is the raison d'être of a school system. In accordance with the expectations revealed by the population, it must be emphasized that any reform of the structures of the school system must aim at improving the quality of education in the schools and ensuring better support for classroom teaching. It is also important to keep together these two dimensions of school education, because on the one hand, the parents are primarily responsible for the education of their children and participate fully in such education; on the other hand, school democracy, which historically has taken various forms, involves promoting, among other things, the participation of those persons directly concerned with public education. Finally, without denying or downgrading the statements made about the primacy of teaching and the responsibility of parents and teachers concerning education, it is essential to acknowledge the important role of the State[38] in education. The government has the responsibility of proposing a general plan and inviting all participants in education to coordinate their activities regardless of differences in cultural background, religion or level of teaching. The government must also meet an essential requirement, which is to ensure democratization, accessibility and equality of opportunity. This must be achieved, not through levelling or standardizing, but rather by allowing diversity of expression.

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37. Declaration of Children's Rights, Beirut 1959,principle 7. An Act respecting the Ministère de l'Education (R.S.Q., chap. M-15, preamble, paragraph 1).

38. Report of the Royal Commission of Inquiry on Education in the province of Québec, 1966, Vol. III, chap. 1, no. 55. Confessionality and the Schools of Quebec, p. 19.

The Conseil will now examine the plan for restructuring the school system, bearing in mind the ends of education - as outlined in the brief reminders above - rather than the particular interests of various groups of society.

PART TWO

RESTRUCTURING THE SCHOOL SYSTEM: FIVE MAJOR ASPECTS

PART TWO: Restructuring the School System: Five Major Aspects

The five aspects dealt with in Part Two are as follows: - the school (ch. 3) - the school board (ch. 4) - the ministre de l'Education and the power of regulation (ch. 5) - school confessionality and respect for the rights of all (ch. 6) - the school structure and linguistic rights (ch. 7). Each of these aspects conditions or affects the whole education system in both its organization and orientation and has great bearing on the present and the future of the Québec school system.

CHAPTER 3 : The School

Taking into account the consultations it held, the Conseil will study each of the divisions of Chapter III of Bill 40 which concern the school. For each division, the Conseil will follow three steps: 1. presentation; 2. analysis; 3. position taken.

Establishment of the School (sect. 28-38)

1° Presentation

As defined by Bill 40, the school «is an educational institution under the authority of the school council, designed to provide education to pupils, within the scope of its educational project, and which exercises its activity in collaboration with the parents, the school staff and the pupils» (sect. 28). The school is established by the school board (sect. 29), which may, every five years, revoke its constituting document (sect. 34). The school is public and common and may integrate with its educational project the values of the local community to which it provides services (sect. 30).

2° Analysis

The definition of the school, as proposed by the Bill, at first seems more complete than that of the present law. The school is an «educational institution» and no longer «an institutional entity[39]». The definition, however, could be improved by mentioning those who actually constitute the school. The institution being considered here is obviously a legal person and not a building. Let the definition then make this clear! This legal person nonetheless will reach its goal, the education of pupils, as a result of the concerted efforts of the school staff, the parents and the pupils themselves. The school must not be described as a reality «outside» of the people who actually compose it.

The Bill clarifies the status of the school by dropping the denotation of «public corporation» used in the White Paper. On this point, the Bill is presumably taking into account the legal research[40] which tends to show that it is unnecessary to transform the «school-as-an-institutional-entity» into a «school corporation» in order to allow it to exercise the powers described in the White Paper. These legal analyses have pointed out the potential imbroglios and conflicts of jurisdiction which would result if there were two school corporations in the system, the school and the school board, exercising inter-related powers[41]. In any case, during the Conseil's consultations, practically no one retained the hypothesis of the school as a «public corporation».

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[39] R.S.Q. chap. I-14, sect. 32.1 «A school is an institutional entity under the authority of a principal, or of a person in charge if there is no principal, designed to provide education to pupils in an organized manner, in whose activities the pupils, teachers, other members of the staff and parents participate.»

[40] Patrice Garant, L'école corporation publique? (The School, Public Corporation?) unpublished paper, November 1982, Jean Beauchesne, Opinion sur le statut juridique des écoles, (Opinion on the Legal Status of Schools), unpublished paper, November 1982.

3° Position Taken

As a result of its consultations and analyses, the Conseil declares itself in agreement with the Bill in its definition of the school as an educational institution.

However, the Conseil would like to draw the government's attention to three points which deserve clarification:

- Section 29 contains an ambiguity which should be corrected. The section states: «The school is established by the school board, which determines the name and address of the school, the composition of the school council...» The French text does not clearly specify whether the word «indiquer» means only «indicate» or whether it also means «determine», the word which appears in the English text.

  The Conseil is of the opinion that when establishing the school, the school board must indicate only the composition of the school council and not determine the number of its members.

- The establishment of a school for a five year period (sect. 34) begins with the year 1985-1986 (sect. 382). But is it certain that the moratorium on school closings announced by the White Paper will continue to hold, considering that the Implementation Committee shall establish, not later than September 1, 1984, the list of the schools in its territory for which it issues a constituting deed»? The situation would be clearer, if the government declared that the moratorium begins with the official sanctioning of the law.

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[41] Patrice Garant, op. cit.: «Whenever, in order to do something, an autonomous public authority requires the agreement or the cooperation of another autonomous authority, there are potential grounds for conflict.»

- Finally, it is important that specific criteria be determined by regulation for the establishment of schools. These criteria will thus be known to all and will act as sure guides for those who will either ask that their school be kept open or for those who will be in charge of recognizing institutions.

Composition of the School Council (sect. 39)

1° Presentation

The school council is to be composed of no more than 14 members and is to include the following persons:

- the elected school commissioner (sect. 139-167);
- parents elected by the parents of pupils attending the school and who will form a majority in Council;
- at least one member of the school teaching staff elected by his or her peers, if they so wish;
- at least one member of the school non-teaching staff elected by his or her peers, if they so wish;
- at least one pupil elected by the pupils in the second cycle at secondary level of the school, if they so wish;
- and the school principal as a non-voting member.

2° Analysis

- The above composition of the school council differs, on two important points, from the composition outlined in the White Paper: it reveals the presence of a commissioner and the absence of a representative of the community. Is the commissioner[42] taking the place of the representative of the community? Since he may or may not come from this community, the answer has to be no. The White Paper proposed the idea of having representatives of the community chosen by a majority of council members. This seems to reflect more accurately the concept of a community school providing a service to the community in the immediate vicinity. It would be preferable if the Bill maintained on the school council at least one liaison person capable of sensitizing the school to the various needs of his or her district, this person having no «direct interest» in the decisions taken by the school.

- The parents forming a majority in the school council reflects the idea expressed in the White Paper. Considering the experience acquired by a good number of parents who have, especially since the early '70s, been involved in the day-to-day life at the school in order to provide education and well-being to the children, the presence of these parents will ensure the fundamental right of parents to the education of their children. Moreover, it could safely be wagered that the parents will be prepared to assume their majority in the school council, considering their oft-expressed willingness to participate in the decision-making process, particularly in regard to educational methods.

- Concerning the presence of the other school participants on the council, some points may be added to what has already been said about teacher participation[43]. Teachers do not constitute

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42. The commissionner only needs to have his domicile in the territory of the school board (sect. 145) and he may pose his candidacy in any school of the territory (sect. 146). This person being elected by any of the electors of the territory of a school board (sect. 540), it is difficult to understand his presence in the school council. Although a stranger to the school community, he is given the mandate to represent it on the management council of the school board.

43. See Part One, pp. 15 ff.

a monolithic group, no more than do parents. Relying on existing studies[44], it may be said that teachers generally wish to participate; they have, in various ways, expressed their desire to acquire more authority in pedagogical matters. The Bill also makes decision-making accessible to heretofore ignored groups, such as pupils and non-teaching professionals. Ideally, the various members of a council should reach their decisions by consensus; this is an ideal of democratic participation to be constantly sought. The pragmatic judgment which the government must exercise in these circumstances invites it perhaps to be somewhat prudent, if not circumspect. Nevertheless, when selecting the arrangements that, in its opinion, are the least likely to fail, the government must give the other school participants, notably the teachers, their rightful place.

- The number of members on the school council allows a certain degree of flexibility according to the size of the school, the requirements of education policies and programs, school activities, etc. The Bill provides a maximum of 14 and, as a minimum, a quorum of three persons ensuring the majority of voting members (sect. 52), i.e. at least five voting members. It could be envisaged that this minimum be raised to seven at the secondary level, considering the possible presence of pupils and the plausible presence of non-teaching professionals - more so than at the elementary level. However, in this matter, no particular formula need be applied. As was previously emphasized, the important thing is that all participants in school may have the opportunity of working together towards common goals. Such an approach should prevail over the numbers game.

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[44] See Gouvernement du Québec, ministère de l'Education, research services, Les enseignantes et les enseignants du Québec, (Québec Teachers), a socio-pedagogical study, volume 5 «Professional Experience: Workload and workplace», Québec 1981, pp. 82-96 and 228-240.

3° Position taken

Concerning the number of persons on the school council, the Conseil proposes an amendment intended to ensure both flexibility and cooperation: that the government require a minimum of five voting persons at the elementary level and a minimum of seven voting persons at the secondary level; that the school council be authorized to determine on its own accord the number of its members, provided this number does not exceed 14, as determined by the Bill. The Conseil, moreover, recommends that the government make provision for an arrangement by which members can be rotated, in order to ensure a degree of stability on the council.

The Conseil proposes a third and more important amendment: that instead of an elected commissioner, the other members of the school council may choose, if they so desire, at least one representative of the community, such a representative being a resident of the district or school territory. For small schools, one representative should suffice. For the larger schools, several representatives will probably be required to ensure liaison between the school and the community. The school council will thus be able to rely more on the contribution of people from the community having no «direct interest», either as consumers or as employees, in the decisions taken by the school.

School Committees (sect, 63-74)

1° Presentation

The Bill offers the persons represented on the school council the possibility of re-grouping into three consultative committees, one for parents, one for members of teaching and non-teaching staff and one for pupils at the secondary level.

«The parents, staff members and, as the case may be, the pupils of a secondary school may unite to form a school committee to carry out the functions of the parents' committee, the education committee and the pupil's committee... » (sect. 63)

All such committees fulfil the same consultative functions on the same subjects. Thus the Bill for the most part takes up the subject of consultation already provided for under the law and which up to now has been the responsibility of the school committee or the parents' committee[45]. However, the Bill adds two subjects to the law: educational methods and evaluation of pupils' learning achievement. On the other hand, it drops other subjects entrusted henceforth to the school council.

Specific functions for each committee are then mentioned. The parents' committee (previously described in the law as the «school committee») is exclusively consulted on «the amendment or revocation of the school's constituting document» (sect. 66). The education committee is exclusively consulted on «general guidelines on auxiliary services and special services for pupils» and on «requirements for further training» (sect. 69). The pupils' committee is exclusively consulted on «the evaluation of services, programs and activities» (sect. 72).

2° Analysis

- As far as parents are concerned, the Bill is respectful of participation practices in existence for a number of years in the schools. The government allows the parents to form their own group and thus to contribute in many ways to the educational quality of the school.

- As far as teachers and non-teaching staff are concerned, placing the educators together in an education committee will promote the professional and educational approach already prevailing in a good number of communities. In so doing, the government is giving this group a means of expression. The committee of teaching and non-teaching professionals will henceforth be officially constituted as a consultative organization on the subject of educational matters in the school. This is a minimal requirement.

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[45] R.S.Q. Chap. I-14, sect. 51-1, 52.3.

- As far as pupils at the secondary level are concerned, the opportunity which they are given to form a consultative committee will provide a special way of learning about democracy[46] and a way of making the older students responsible for the younger ones in school. The students are thus invited to go beyond simple extracurricular activities and to become more involved both in important aspects of their learning and in the policies of the school where they receive their education.

- More generally, it is difficult to anticipate what attitude the consultative committees will take towards the school council when it asks them (sect. 65, 68 and 71 - 4°) for their advice, which is discretionary. In any event, the Bill represents in this regard an instrument which the school community may utilize well or badly. The instrument may become part of a democratic perception of participation in school life or, on the contrary, it may be used for individual interests and thus become a source of conflict.

3° Position taken

The Conseil believes that the consultative committees can efficiently assist the school council in determining guidelines for the school. This instrument, offered by the government to the school participants, is not infallible. Its efficiency in helping to realize the common goals of the school depends largely on the attitudes of the various groups which, in the end, actually are the school. The government must therefore encourage the setting up of such committees and promote their smooth operation[47].

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[46] This is one of the objectives of The Schools of Québec 2.2.14.

Although important, this encouragement is not enough. The government must go further and broaden the jurisdiction of these committees. First, it is important that the three committees be consulted on the criteria and methods for evaluating services, pupils' learning achievement, and staff. Second, the education committee must participate in decisions concerning pedagogical questions such as the adaptation of programs, the choice of educational methods, the choice of textbooks and teaching materials, and the evaluation of the pupils' learning achievement. It may be recalled here that the Conseil previously advocated this in its study on «Improving Collective Agreements».

The School Principal (sect. 82-89)

1° Presentation

The school principal is selected by the school board on the recommendation of a selection committee composed in the majority of members of the school council (sect. 82).

The principal has authority over the entire school staff (sect. 75) and sees to the management of the staff (sect. 86 - 5° and 121). He or she has the duty to: see to the implementation of the orientation and plan of action of the school's educational project: see that the decisions of the school council are carried out: direct the day-to-day management of the school and apply the provisions governing the school; see that the school operate properly and see to the quality of the educational services provided by the school; and see to the supervision of pupils' school attendance. The principal is also the person in charge of the school's financial operations, therefore the person who can authorize payments (sect. 132).

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[47] It is difficult to understand why the government insists on declaring, for each committee: «the meeting... may decide not to form a committee...» Such a precision is useless and unfortunate.

The school principal submits administrative reports to the school concil, which may delegate powers to him. The school board may also delegate powers to the principal (sect. 86 - 7°, 174 and 126). He may perform other duties assigned to him by the school board (sect. 88).

Finally, the principal must encourage the participation and collaboration of the parents, pupils and staff in the life of the school (sect. 86 - 4°). He or she may be a member of the three school consultative committees, as the case may be, but only as a non-voting member (sect. 87).

2° Analysis

The school principal as defined by the Bill is indeed a key person playing the various roles described in The Schools of Québec[48], which roles were commented upon at length in a ministerial document[49] published in the same months as the White Paper The Québec School, a Responsible Force in the Community. In view of this multiplicity of roles, there are many who fear that the principal will be monopolized by management tasks or even political tasks, at the expense of his essential educational responsibilities. In addition to the responsabilities already mentioned, he must, before September 30 of each year, call meetings of parents, teaching staff, non-teaching staff and pupils, to elect their representatives, if need be, and to form the consultative committees (sect. 40, 42, 44, and 64, 67, 70). The principal may be called on to sit on the management committee of the school board (sect. 184). Finally, he could, by delegation of the school council, be called on to exercise in whole or in part the functions devolved by law to the school. In order to encourage all school participants to exercise more responsibility, the government should make provision that such delegation not be complete and definitive.

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[48] The Schools of Québec, 3.7.

[49] Gouvernement du Québec, ministère de l'Education, Camille Laurin, ministre de l'Education, Le directeur et la directrice d'école: des maîtres d'oeuvre (The School Principal: a Person in Charge), June 1982. In his exposé, the minister attributes several roles to the principal: he is at the same time mandatary of the state and the community, professional manager, animator of the school team , and organizer of an educational microcosm.

Two other questions may be raised in relation to sections of the Bill concerning the school principal: one concerns his appointment and his mandate; the other concerns his status as an employee as well as the line of authority between himself and the school council and finally, between himself and the director-general of the school board.

According to a recent study[50], the first question seemed to raise a serious problem if the question of appointment, evaluation and dismissal of the school principal by the school council were dealt with according to the recommendations of the White Paper. On this point, the Bill only partly settles[51] the problem inherent to the White Paper. The school participates in the selection of the school principal (sect. 82). The school council has no power of dismissal;

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[50] André Brassard and Marcel Ouellet, Quelques aspects de la décentralisation administrative vers les écoles (some Aspects of Administrative Decentralization in favor of Schools), series «Notre école» No. 1. Meeting of the school boards of the region of Montreal, 1983, pp. 60-62.

[51] See also subsequent commentaries concerning the appointment of the principal by the school board, p. 61.

it may only submit a recommendation (sect. 84). However, the school council has the power to decide not to renew the principal's mandate by a vote of two-thirds of its members, at the time his five-year mandate expires (sect. 83). And, in both cases, viz. dismissal or non-renewal of his mandate, the school board either retains the principal or dismisses him (sect. 85). This creates a jurisdictional entanglement which must be sorted out.

On the other hand - this is another question - does the principal have two superiors (a situation which some persons wanted to avoid at all costs): the school council, which holds ultimate authority at the school level (sect. 28), and the director-general of the school board, who acts for the school board as employer (sect. 219)? Besides his selection (sect. 82) and his reassignment (sect. 85) by the school board, it seems that the school principal has but an indirect relation with the director-general concerning all duties of the principal in the school (sect. 86) and all functions conferred on the school by the Bill. However, the school principal answers to the director-general for those other functions entrusted to him by the school board (sect. 88). As far as the question of «two superiors» is concerned, it will be agreed that the government cannot settle the question by simply enacting a law, the reason being that the school principal plays a double role. He is, at one and the same time, leader in his own school and representative of the school board. In the end, the government must strive as much as possible, to clarify its Bill and specify exactly which matters fall under the jurisdiction of the school council and which matters fall under the jurisdiction of the director-general of the school board. It is particularly important that matters concerning current management be clarified.

3° Position taken

Considering as a whole the sections of the Bill concerning the school principal, the Conseil holds the following views:

- The school principal must be an educational leader, not a business manager. In order for the principal to adequately fulfil this primordial role in the school, the organizational structures provided for in the Bill must be reinforced by administrative support mechanisms in at least two situations which occur frequently enough: at the elementary level, when the principal has several schools to manage: at the secondary level, in schools with a large clientele. Such support could be provided, for example, by an administrative assistant.

  Thus assisted, the school principal could also find support in the consultative committees of the school and in the community served by the school.

- The principal has another task: that of helping the various participants in the school exercise greater responsibility. A leader is not an autocrat; on the contrary, he must encourage others to take on additional responsibilities. Giving the school greater responsibilities involves giving all its participants greater responsibilities. Therefore, while expressing its agreement with the duties and functions attributed by the Bill to the school principal, the Conseil proposes the following amendment: that section 86 mention that the delegation of powers by the school council to the school principal should only be partial and provisional.

- Other amendments must be introduced into the Bill concerning the powers of the school and the school board in connnection with the appointment and evaluation of the school principal and the renewal or revocation of his mandate. It must be made clear that the school board, as employer, has the power to hire or dismiss the school principal. The school council, for its part, must have the authority to make recommendations on all of these points, including the renewal of the principal's mandate.

Functions and Resources of the School (sect. 90-132)

1° Presentation

In the areas of competence assigned to school boards by Chapter IV of the Bill, the school exercises its functions within the framework defined by the school board to which it is responsible (sect. 90).

The school council exercises the functions assigned to the school (sect. 35).

The school provides the educational services assigned by the school board (sect. 202) to the pupils whom the school board has placed on the school's roll (sect. 92). The school provides to adults such educational services as are determined by the school board.

The functions of the school are summarized as follows:

. Implementation of the education policy and regulations which includes, inter alia, the school calendar established by the school (sect. 95) in accordance with the norms determined by the school board to allow for constraints connected with pupil transportation (sect. 203); the allocation of sufficient time to instructional services and other educational services to ensure that the compulsory objectives are reached and the compulsory contents of the official programs of studies are acquired (sect. 96).

. Provision of instructional services[52], including the choice of school textbooks (sect. 105) and the possibility of developing other programs (sect. 100) than the official programs whose implementation is the school's responsibility (sect. 99).

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[52] It is to be noted that teaching methods are determined by each teacher (sect. 104).

. Provision of auxiliary and special services, as defined in sections 4, 5 and 7.

. Evaluation of pupils' learning achievement, the standards and methods of which are determined by the school, in certain cases according to the evaluation plan established by the school board (sect. 207). The elementary school assesses the pupil's readiness to be promoted from elementary school to secondary school (sect. 113).

. Provision of services to the community. The school may organize such services (sect. 117), notably day-care services for pupils at elementary school (sect. 118). The school may contract, in the name of the school board, with a person or an establishment for the supply of goods or services to the community and, in this connection, may sue or be sued (sect. 119).

The resources of the school are of three types:

. Human resources: the school forwards a staffing plan to the school board (sect. 120), which the school board takes into account when assigning personnel to the schools (sect. 222).

. Material resources: the school is responsible for the property placed at its disposal by the school board, and determines its use (sect. 123). The school has the usufruct of this property, the ownership of which remains with the school board (sect.230).

. Financial resources: within the precise framework of balanced budget estimates (sect. 128), which are without effect until approved by the school board (sect. 129), the school prepares its annual budget estimates and forwards them to the school board, which approves them either with or without amendments (sect. 127 and 236). The approved school budget constitutes a separate appropriation within the school board's budget (sect. 131).

2° Analysis

(i) - General Remarks

The functions and resources of the school are treated by the government as powers, as evidenced by sections 86 - 7° and 216, where mention is made of the delegation of the powers of the school council either to the school principal or to the school board in matters of human, material or financial resources management.

These two types of delegation of power must be viewed within the context of a certain decentralization of the education system in favor of the schools. The powers decentralized by the Bill are far from being the same as those proposed by the White Paper for the corporate school. The school described in the Bill reflects a different approach on the part of the government, which prefers to place the functions of the school within the scope defined by the school board to which it is responsible (sect. 90).

The school, however, has certain powers of its own, albeit very limited, which can be viewed from the perspective of giving the school greater responsibility, particularly in matters of education. The acquisition of greater responsibility met with the approval of most of the groups heard by the Conseil during its consultation. Moreover, this model has the advantage of being applicable everywhere in Québec. This was not possible with the corporate school, a hypothesis which should have been tried out beforehand. As a matter of fact, the Bill does not propose a single uniform model since the school council, which normally assumes the powers of the school (with respect to functions and resources), may delegate its powers, in part or in full, to the school principal. As far as delegating to the school board the powers of the school related to human, material and financial resources, such a measure that the Bill provides for could become temporarily necessary (sect. 216).

Another general point must be raised concerning the sections of the Bill respecting the school's functions. Although the government does indeed indicate that the functions assigned to the school are exercised by the school council (sect. 35), the confusion in the text of law remains such as to sow discord in day-to-day life at the school.

The following are some examples of unclear references to the functions of the school. It seems clear that sections 98, 112, par. 2, 113, par. 2, 114 and 115 which refer to the school describe functions which belong to the school principal and not to the school council. It is the principal, not the council, who gives each pupil and his parents a list of his teachers and instructors... (sect. 98). It is the principal not the council, who consults the pupil, his parents and the staff concerned before providing educational support services to a pupil having difficulties (sect. 112, par. 2). It is the principal, not the council who, jointly with the staff concerned assesses the readiness of a pupil to be promoted from elementary school to secondary school (sect. 113, par. 2). And it is the principal, not the council, who sends the pupil and his parents written reports evaluating the pupil's learning achievement, certificates of school attendance and transcripts of marks (sect. 114 and 115). On the other hand, section 96 correctly describes a function reserved to the school council, that of allocating time to instructional services. It is further noted that section 91, par. 1, should more appropriately have appeared immediately following section 28. As a matter of fact, section 91, par. 1 refers to the school as a social entity and to its educational mission regarding its pupils and to its commitment to the interests of the community.

The government would therefore be well advised to revise Division V of Chapter III of the Bill by assigning, in a more precise fashion, the functions of the school either to the school council, the principal, or the legal person described in section 28.

(ii)- Particular Points

Section 91: the mission of the school

In a revised Division V of the Bill, the particular mission of the school should be described in relation to the general mission of the government which, in education, is responsible for policy and planning (Chapters V and VI). The role of the school cannot be considered as confined exclusively to a local level. The school must be viewed in the context of a province-wide educational plan.

Section 92: adult education

The attention given in the Bill to the question of adult education is totally inadequate. Adult education is mentioned only incidentally in the text in relation to the school's function of providing specific educational services as allocated by the school board (sect. 202). Although speaking on a provisional basis, the White Paper (pp. 85-86) was more explicit on the question of adult education. On this matter, the government must give a long-awaited answer to the recommendations of the Jean Commission. If its intention is to introduce separate legislation concerning adult education, the government should at least make an announcement to this effect. Otherwise, Bill 40 must give adults the full attention they deserve in a community school.

Section 95: the school calendar

This function is assigned to the school; it has revealed itself to be a very controversial one, as pointed out in the study submitted previously concerning administrative decentralization in favor of the schools[53].

Determination of the school calendar, a matter already covered by governmental regulation (sect. 308b), must remain under the jurisdiction of the school board, especially when coordination on a given territory must take into account the quasi-insurmountable constraints connected with pupil transportation (sect. 203). However, the schools must participate, as much as possible, in decisions concerning the school calendar. Such participation may, in certain cases, lead to the freeing of a number of professional days for the educational purposes of the schools, particularly concerning in-service training and development. The schools will then be able to get together (sect. 36), as some already do, and help one another in the pursuit of common objectives.

Section 100: developing programs other than the official programs.

The Bill assigns to the school a task that formerly belonged to the school board: developing programs in addition to the study programs prescribed by the ministre[54] . Many schools will find themselves able to exercise this function only in part, either by developing sections of programs, or by developing specialized approaches. In any case, it will be necessary to have collaboration between schools (sect. 36) as well as support by the school board (sect. 206). The investment of human and material resources for the development of complete or partial programs requires such collaboration and support. It will be up to the schools and the school board of a given territory to implement what the government makes possible, with a view to improving educational activity and making it part of local practice.

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[53] André Brassard et Marcel Ouellet, op. cit., pp. 54-55 and 76.

[54] Régime pédagogique, elementary, sect. 19, and secondary sect. 3.

Section 104: determining teaching methods

Within the provisions of Division V, which is devoted to the functions of the school, the Bill assigns each member of the teaching staff the responsibility of determining «the modalities of implementation of the teaching methods, taking into account the educational scheme of the school and ensuring the continuity of the pupil's learning process». It is difficult to see how each individual could determine the manner of applying the teaching method. Which teaching method is involved here? There is a risk of considering the teacher as a simple technician who applies a method. In fact, the learning and educational objectives call for a great variety of methods and teaching approaches, the choice of which belongs to the teachers. Moreover, in a revised Division V of the Bill, it would be appropriate, after having clearly defined the functions of the school, the school council and the school principal, to also indicate those of the teachers.

Section 113: «the school establishes standards and modalities for the evaluation of pupils' learning achievement..»

This function assigned to the school raises serious problems related to pupil mobility and to collaboration between the elementary and secondary schools[55].

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[55] See André Brassard et Marcel Ouellet, op. cit., pp. 51-53 and 76.

Section 207 mitigates the difficulty concerning the secondary school diploma by entrusting the school board with the responsibility of establishing achievement evaluation guidelines for each subject for which there is no provincial examination and for which credits are required. But the problem remains wholly unresolved concerning promotion from elementary to secondary school and, at the secondary level, concerning the requirements of the education policy and regulations[56].

In a revised Division V of the Bill, evaluation of pupils' learning achievement, as a function of the school, must include the following specific actions: the responsability for evaluation is to be exercised by the school staff, particularly the teachers, under the leadership of the school principal; the school's responsibility is undertaken within the evaluation guidelines established by the school board.

For a school board which has jurisdiction over both elementary and secondary schools[57], it would be preferable, for the evaluation of learning achievement, to extend the coordination expected from the school board as provided for in section 207 in order to facilitate the «common efforts of the teachers of these two teaching levels» as well as the handling of pupils' problems[58].

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[56] Out of a minimum total of 176 credits offered, the student must accumulate 130 credits to obtain his diploma, 40 of these credits being compulsory. Since no one knows which credits the pupil will choose, besides the 40 compulsory credits, all subjects must therefore be coordinated in an evaluation plan, excepting the few subjects submitted to a provincial examination set by the Ministre.

[57] See Chapter 8 of the present study.

[58] L'Activité pédagogique, p. 154.

Section 116: «The school shall collaborate in any evaluation by the Ministre of the educative policy, official programs of studies or textbooks.»

In obliging the Ministre to consult the schools, the Bill may encourage a dynamic contribution by the schools at the teaching level and improve thereby the quality of educational activity throughout the system. Education management, which is too often «directed downward» may benefit from «upwardly directed» feedback on the part of the agents of educational practice in the schools: teachers, pupils, school principal, and parents.

This function that the Bill assigns to the school - and the school board (sect. 214) - must be reinforced. The text of law should state: «The school and the school board shall collaborate in the evaluations the Ministre conducts from time to time». The Ministre must be obliged not only to collaborate with local and regional institutions but also to periodically evaluate the education policy and regulations, the official study programs and the textbooks.

Section 119: «... to sue or be sued»

Section 119 includes a series of actions different in nature: the school may contract for the supply of goods or services to the community; when the school makes a contract, it does so in the name of the school board; in the case of hiring a person to provide day-care services in the school, for elementary school pupils, it must obtain the prior authorization of the school board; finally, the school may sue or be sued.

The impression here is that the government is ill at ease with a school that is not a public corporation. It would obviously be simpler, in the above cases, to give the school the capacity to make contracts in its own name « within the scope of its budget estimates and, as the case may be, in accordance with the school board employment norms ». In such cases, the school would have contractual and delictual responsibility, and it would be unnecessary to add that it could sue or be sued. This goes without saying when one has the capacity to make a contract.

Section 120: «The school board shall... take account of the staffing plans submitted by the schools» (sect. 222).

The advantage of this section is that it emphasizes the needs a school may have, in connection with a particular educational project. The exigencies of staffing the schools will presumably make it impossible for the school board to meet all the schools' requests: this should however allow the specific character of each school to be given as much consideration as possible.

Section 130: «The revenues (earned by the school) are not taken into consideration in determining... the distribution of financial resources...»

This measure could create important disparities between the schools: could it be that the schools which are well provided in buildings and services will become richer and the others poorer? However, this concerns only financial resources «other than those derived from school taxes». The revenue coming from school taxes could be used to establish a form of revenue equalization among the schools, within the framework a school board policy of leasing school premises.

3° Position taken

The Conseil agrees with the basic approach of the Bill which, through some decentralization in favor of the schools, tends to encourage participants in the school to take on more responsibilities. In this regard, the Conseil believes that the type of school proposed can be generally adopted throughout Québec without imposing a uniform model. The basic objective is to see that the various participants in a school take on more responsibilities in conjunction with participants in other schools, their activities being with participants in other schools, their activities being coordinated by a regional institution, the school board. However, in order to more surely reach the desired objective, a certain number of amendments will have to be made to the Bill.

Concerning the functions and resources of the school, the Conseil makes the following recommendations:

- that Division V of Chapter III of the Bill be revised so that the functions of the school, the school council, the principal and the teachers are clearly distinguished;

- that, in particular, the said Division V provide for the full participation of teachers in the school's education committee concerning decisions on questions of an educational nature: adaptation of programs, choice of teaching methods, choice of textbooks and teaching material, and evaluation of the pupils' learning achievement. On these questions, in case of disagreement on the part of the school authorities, the final decision should be made either by the school council or the school principal, according to whether it is a matter of policy or ordinary administration.

- that the delegation of powers concerning human, material and financial resources, by the school and the school council to the school board be of a tempory nature;

- that the school board's role of planning and coordination be more clearly defined in relation to certain functions of the school, such as determination of the school calendar, elaboration of programs other than the official study programs, and evaluation of pupils' learning achievement in particular.

- that the government indicate clearly whether it intends to respond to the recommendations of the Jean Commission, and whether it intends to present a separate Bill respecting adult education; otherwise, Bill 40 must give the adults the full attention they deserve in a community school;

- that section 119 be amended in order that the school may make contracts in its own name, within the limits of its budget estimates and, where appropriate, in accordance with the employment of the school boards.

The Conseil believes that these amendments should contribute to making decentralization into an instrument for giving the various participants more responsibility and, as a result, improving the quality of school education.

CHAPTER 4: The School Board

Taking into account the consultations it conducted, the Conseil will in this chapter study the roles and functions of the school board and examine some aspects[59] of the Bill, the composition of the board of directors of the school board and the election of commissioners in particular. The Conseil will also consider further aspects of the Bill which call for comment.

Roles and Functions of the School Board

- An essential link between the school and the ministère de l'Education

The Conseil's analysis concerning decentralization of teaching powers in favor of the school and school councils tends to justify the role of the school board as an intermediary between the schools and the ministère de l'Education. It may be asked why some of these intermediary institutions have waited for the government to intervene to give greater responsibility to the school. At any rate, other school boards[60] long ago instigated gradual decentralization of certain powers in favor of the schools, allowing schools to determine their budgets and priorities, utilization of school premises, etc. Their testimony confirms the necessity of acting with flexibility and at the same time affirms the necessity of an intermediary institution that is actively present, assuming a supportive role and an arbitral role in case of dispute. Allowing the schools to really take charge of their activities, particularly at the teaching level, should lead to all school participants acquiring more responsibility[61]. Such an open approach to giving the school greater authority, as advocated by most of the groups the Conseil heard will require the collaboration of both school boards and schools in order to realize the objectives of the Bill.

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[59] The confessional and linguistic aspects of school boards will be considered in chapters 6 and 7 respectively.

[60] See André Brassard et Luc Brunet Centralisation-décentralisation, Etude de modèles organisationnels, (Centralization - Decentralization: a Study of Organizational Models) Series «Notre Ecole», No. 2, L'association des commissions scolaires de la région de Montréal 1983.

The school boards' role as an intermediary in this approach is a primordial one. As a matter of fact, it is a risky matter for a local institution to take matters into its own hands, for example, when the local council has to face the central authority alone. This was demonstrated in studies of the management of public institutions[62]. The compulsory education sector's asset, - a unique one - lies in the pivotal position occupied by the school boards which can make more acceptable and better adapted to a specific region and population what otherwise would be uniform and unrealistic. But the school board must be provided with the means to keep on playing its unique role - and remain an asset.

- A regional center of common services

A second role is given to the school boards by the persons and groups consulted: the administration of a school board provides «economies of scale» by forming a kind of resource center at the disposal of the school. The school board serves as a «center for common services» for the benefit of all schools in the territory. Thus, the consensus is that equivalent services could hardly be provided at the same cost in individual schools, i.e. without the economies of scale realized by grouping services under the school board. These persons and groups therefore believe that the services at present enjoyed by the schools could hardly be provided by one school only.

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[61] It should be recalled that the decentralization experiments prior to the Bill gave greater authority to the school principal rather than to the school.

[62] See Germain Julien, Livre blanc sur la restructuration scolaire et l'expérience québécoise de participation à la gestion des établissements publics (White Paper on Reconstructuring the School System and the Québec Experience in Participating in the Management of Public Institutions), Centre d'études politiques et administratives du Québec. August 1982, 21 p.

Generally speaking, the powers of the council of a public institution consist essentially in routine management which could be limited to the institution itself. In point of fact, the public institution depends entirely on the higher authority for its financing, is subject to province-wide norms and is subject to constant authorization and approval by the central authority. In the end, the local administrations are essentially reduced to the role of agents carrying out the policies elaborated at the central level.

Services common to all schools may also be exchanged between school boards; thus the same services could be shared across vast territories. Until now, school boards have entered into agreements with municipalities and placed these services which they normally provided to their pupils, as well as the premises which are their property[63] at the disposal of citizens. On this point, the Bill amends prevailing custom and entrusts the school with the use of the premises together with the responsibility of seeing to their utilization and making its own agreements[64]. Such utilization of premises by the school, either by gratuitous or by onerous contract, will not be possible without some coordinating by the school boards, in collaboration with the municipalities, even supposing a certain degree of decentralization in favor of the schools.

- Coordination of human resources and teaching services

If the type of services provided by the school boards concerning teaching is now considered, it will be found that among other things, it has until now exercised a coordinating role. In the process of placing the pedagogical renewal on stream, the implementation of new programs related to the education regulations of 1981 will continue at least until 1986. It is therefore difficult to see how the specialized professional staff, who at present are working on the implementation of programs and teaching guides, could be assigned to the schools as part of the decentralization policy. Unless there is sudden reversal of the trend observed since the creation of the ministère de l'Education and all educational consultants specialized in French, English, physical education, etc. are converted into generalists, it is not realistic to allocate such staff to the schools. The concept should rather be one of a pedagogical service offered to all schools and provided through the administrative center of the school board[65].

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[63] When consulted by the Conseil, the representatives of local and regional county municipalities did not hesitate to say that they appreciated such agreements and that, in their opinion, the persons in charge of schools discharged their responsibilities.

[64] The prior authorization of the school board is required only when the agreements are for a period of more than one year (sect. 124).

As far as the educational services provided by the schools are concerned, their allocation, according to the Bill, remains under the authority of the school board (sect. 202). The school board determines the educational services provided to adults (sect. 92). Also the school board «may draft, on the recommendation of the advisory committee on services for pupils with social maladjustment or learning disabilities, the criteria for the provision of services for those pupils to facilitate their integration with regular classes» (sect. 204). Generally speaking, support for the educational organization of the schools (sect. 206) cannot be provided efficiently if conceived to operate purely and simply within the framework of a kind of open market-place, governed by the law of supply and demand. Education in the schools will truly be supported and assisted only if the school board establishes a plan of coordinated services.

An authority at once educational and administrative

Among the obstacles to be overcome in order to bring about an educational reform, the White Paper mentioned the concerns of the school boards which were «often more administrative than pedagogical[66]». This implicitly acknowledged that the school board has both an educational and an administrative mission and that it cannot be exclusively limited to one or the other.

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[65] It is however important to emphasize that localizing human resources at the school board must not be identified with bureaucratizing these services. The consultants' work must be performed mainly with the teachers and be directed towards the school and the classroom. See L'activité pédagogique, p. 133.

A distinction must also be made between the large comprehensive schools requiring more «specialists» and the small schools sharing specialized staff among themselves.

By bringing day-to-day pedagogical decisions closer to the school and leaving the school board the responsibility of coordinating pedagogical matters, the Bill brings to light the interrelation between the powers of the school and those of the school board. Henceforth, the school board will be seen more as an intermediary structure providing services, in the sense that management of common resources should truly serve pedagogy and not the reverse. The powers of the school board and those of the school are therefore interrelated and directed to the same goal: pedagogical acticity. In short, the new school boards remain important regional administrative institutions whose role and mission are more clearly directed towards the prime objective of schools: the quality of educational life. In bringing powers related to education closer to the school, the coordination provided by the school board in this area must at the same time be considered essential; without this coordination, it would be difficult to pursue the desired goal.

It would be useless if a school reform of the magnitude of the one under consideration did not succeed in giving more sense to the whole system. That is why the primacy of the educational objective over the various types of means must be strongly reaffirmed.

A renewal of representation

By emphasizing the representation of parents having children at school, the White Paper was calling attention to the renewal of the school boards' representative character. At the same time, it was counting on the commitment and participation of those who were most concerned about seeing the educational objective realized.

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[66] White Paper, p. 25.

The presence of parents on the board of directors of the school board since 1979, as the groups consulted confirmed, has brought fresh insight on questions relating to school management, by encouraging the commissioners to concentrate more on ways of promoting educational activity in the schools. Because of this, an increase in parental representation can be contemplated, without necessarily proposing a board composed exclusively of parents, as does the White Paper.

Assuming that school education is both an extension of the family and a service to society, and that the school board is both an educational and an administrative institution, it becomes important that representation on the board of directors of the school board reflect these particular characteristics. Giving the school more responsibility, particularly in relation to educational methods, calls for the formation of a board of directors which can provide firm administration with a view to improving the quality of educational activity in the schools and classrooms.

Assuming that educational reform cannot take place without giving the school more responsibility, it becomes obvious that this cannot be realized without the school board giving priority support to its schools. If such an obvious fact has been overlooked, it must immediately be brought back into favour so as to once again concentrate the restructurating of the school system on the raison d'être of the whole education system: the training of citizens, both young and adult.

It is not inopportune to underline that the school board, on a territory common to many schools, will be the only public corporation with the authority to respond to the citizens' expectations concerning compulsory public education. In democracy, this unique situation requires that the means for all citizens to express their wishes concerning the kind of education society intends for children be provided. In this regard, universal suffrage is essential, especially when a public corporation is endowed with a certain power of taxation. All citizens of a given territory should therefore be allowed to exercise their right to vote at the school board level.

Once this principle is accepted, however, it becomes important to think of the specific nature of school education and to place universal suffrage in a renewed perspective where the school is given more responsibility.

. Composition of the board of directors and election of commissioners (sect. 138-179)

1° Presentation

The school board, a public legal person (sect. 136) is administered by a board of directors composed of the commissioner for each school (sect. 138). The school commissioner is elected in following manner:

- Any voter may be elected commissioner of the school situated in the territory of the school board of his domicile (sect. 145, par. 1), excepting however persons ineligible under the Electoral Act. Members of the staff of a school board are not eligible for election as commissioner (sect. 145, par. 2).

- No person may be a candidate for more than one school at the same time (sect. 146).

- The voter, at the time of enumeration, designates the school for which he wants to vote, which must be situated in the territory of the linguistic school board where he is domiciled (sect. 540).

2° Analysis

This manner of constituting the board of directors of the school board has a number of drawbacks:

- The commissioner need not be a member of the school community or a resident of its district; therefore, there is a risk of his being parachuted into the school council as an outsider (sect. 39 - 1°). The support of some five parents having a child attending that school does not guarantee any kind of local attachment; it is well known that one can easily obtain the required support in such cases (sect. 147).

  The law even provides that no election may be declared null on the ground that a person «supporting a declaration of candidature is not a parent who has a child attending the school for which the declaration is filed» (sect. 161). Such an electoral process is totally unacceptable. It could even, in certain cases, give rise to collusion between a candidate and electors wishing to fix electoral results in a given school. How can such dispositions be reconciled with the objective of a «community school»?

- The establishment of electoral lists and the holding of elections on a school-by-school basis risks creating notable disproportions. There may be a substantial number of voters for one school and a limited number for another. Also - a situation which was to be avoided at all costs - these may be marked indifference among the voters at the time of polling, caused by an apparently complex electoral mechanism.

- At the board of directors of the school board, there is a risk of petty local quarrels between commissioners placing the interests of their own schools foremost. Moreover, not every commissioner on the board of directors will represent an equal number of votes even though each is numerically equal; one commissioner will sit for a big secondary school while another will represent a small elementary school.

- The ineligibility of school board staff risks depriving society and the school system of the contribution of competent citizens. It is difficult to see why a member of the staff of a school board could not be elected to another school board where he or she is not employed. This person may already sit on a school council, according to the Bill. Elsewhere in the world of education, current practices do not exclude school board staff members from boards of directors. To consider staff members as ineligible to become school commissioners on another school board would be discriminatory.

More generally, it is difficult to envisage how, with this kind of representation on the board of directors and with this kind of electoral procedure, it is possible, on the one hand, to realize the project of a community school firmly rooted in its district and, on the other hand, to bring the schools and school boards to work together towards the same goal: improving the quality of educational life. The result is more likely to be interminable conflicts in which energies are spent on parochial interests and means rather than on attaining educational goals.

. A possible solution

1° Presentation

The principles that inspired the Conseil supérieur in preparing its study, the consultations it has held and the analysis it has made, lead it to make the following proposition:

> the board of directors should be composed of representatives[67] elected by the school councils

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[67] Since the parents hold the majority in the school councils, their representatives will be parents. However, it may happen that the electors of the school councils elect a representative of the community already chosen to sit on a school council.

and of citizens elected by universal suffrage, the former being the majority.

The Composition of the board could be fixed at fifteen voting members, comprising eight representatives of the school councils and seven other citizens elected by universal suffrage.

The school councils, forming an electoral college, would elect[68] a number of commissioners, by groupings of schools in the territory of the school board. The government shoul provide for a mechanism that will ensure the presence of representatives from the councils of secondary schools.

The other portion of the board of directors of the school board would comprise citizens elected by broad districts[69] equivalent to the territory of four or five schools, in the territory of the school board. It should be seen to it that these districts correspond to the school groupings which serve to elect the representatives of the school councils.

As for the duration of the commissioners' mandates, the government should determine a term of two to three years which would coincide with the duration of the mandates[70] of the members of the school councils.

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[68] The chief electoral officer should, as for any election, determine the procedure for the election of these commissioners. The members of the school councils, having the right to vote, should be voters in accordance with the electoral law. This implies that students who are minors would not be entitled to vote in such elections.

[69] There is a problem which will have to be solved in determining the groupings of schools, taking into account the presence of secondary schools, in order for the electoral college to designate the commissioners; there is also a problem in determining the broad districts for the election of the other commissioners by universal suffrage.

[70] The identical duration of the mandates of members of the school councils and members of the board of directors of the school board would be all the more important if there were a desire to set up a form of rotation in the composition of the school councils.

2° Commentaries

In either case, whether as representatives of school councils or as elected citizens, the members of the board of directors of the school board would be elected by territorial wards large, enough to prevent them from confining their activity to excessively narrow interests, e.g. to individual school needs.

There would, moreover, be greater chances for the two essential dimensions of the school board to be present; the mostly educational concerns of the representatives coming from the school councils and the mostly administrative concerns of the other commissioners elected by the citizens of the various electoral districts.

Bipartite representation on the board of directors of the school board is widely supported. On the other hand, opinions vary when attempting to establish the amount of representation each party should have. During the Conseil's consultations, a number of ways of offering universal suffrage both to parents with children in school and to other citizens were suggested. Basing itself equally on its consultations and its analyses, the Conseil has come to the conclusion that bipartite representation would be the best way of realizing the common educational objectives of the schools and the school board. The new composition of the board of directors of the school board would change the present situation for the better while at the same time avoiding the dangers inherent in the hypothesis contained in the Bill.

Each commissioner, whether a parent elected by a school council or a citizen elected in a district, would have no other legitimate purpose than to provide the best education possible in the schools.

There would be greater chances first, of the twin characteristics of school education emerging, i.e. extension of the family and service to society and, second, of the school board becoming increasingly an administration serving education in the schools rather than a center for political manoeuvering.

The number of commissioners, approximately fifteen, may help in the accomplishment of this function of the school board. The school board would no longer be an intermediary superstructure, but rather an organization hardly any larger than the school council: the school board would become a working group, whose decisions would rely on the commitment of persons capable of making public school education progress, with a board of directors whose first responsibility would be to consider the needs of the schools, since that is where educational activity takes place.

Other points in the Bill

Other points in the Bill, of variable importance, deserve brief attention because of their significant character in relation to the Conseil's conception of a renewed school board.

. The school board committees

1° Presentation

The Bill provides for an executive committee of the board of directors (sect. 180), four consultative committees created by the school board - a management committee, a committee dealing with services for pupils with social maladjustments or learning disabilities, a pupil transportation committee and a regional committee (sect. 180-189) - and an optional fifth consultative committee which allows participation of the private educational institutions situated in the board's territory (sect. 190).

2° Commentaries

First, it is surprising that among all these committees, there is no place for an education committee. Moreover, if the trouble is going to be taken to form a committee for pupils with maladjustment and learning disabilities, it seems just as important to form a committee for the economically disadvantaged, wherever necessary. Just as surprising is the unique situation of a majority of school principals in the management committee (sect. 184).

The Conseil believes that the Bill needs some amendments and a few additions with regard to these matters. In a school board composed of representatives of school councils and citizens elected by means of universal suffrage, it would be expected that other measures than the formation of committees would be chosen to ensure administrative and educational coordination, provision of services to various clienteles and collaboration with private institutions as well as with local and regional civil authorities of the municipalities and the RCM.

. Functions and resources of the school board

In the previous chapter on the school, many functions and resources of the school board were touched on. It seems appropriate to mention a few others here.

- Appointment of the school principal (sect. 221, 82 and 224)

Once the selection committee composed in the majority of members of the school council has chosen its candidate (sect. 82), the Bill states that the school board shall appoint the candidate recommended to it (sect. 221) while another section (sect. 224) provides that a school board is not obliged to engage a person it considers unsuited. The law should be clarified. A recommendation is never binding. This should be clearly stated.

- The choice of a school by parents (sect. 18 and 209)

The parents have the right to choose the school which best corresponds to their preference, and the school board must take account of this when enrolling the pupils.

The Bill unfairly creates the illusion that the choice of a school is left entirely to the parents. The choice of a school other than the neighbourgood school may entail transportation costs for parents who take advantage of section 18. It is well known that the financial means of the school board in relation to transportation are quite limited.

On the other hand, care must be taken that choice of a school does not become a pretext justifying a particular school in ignoring pluralism and the respect of differences. Since the choice of a school is now related to the «education project» of the school corresponding to the parents' set of values, some parents could be forced to seek another school because of the intolerence of the neighbourhood school. Such an eventuality would lead to worse situations than those caused by transfers of pupils. Such transfers are usually due to unavoidable problems arising when groups of pupils are formed. The situation raised by the choice of a school because of its set of values might force the school board into taking difficult and arbitrary decisions.

- Staff transfers (sect. 229)

The Bill grants the school board the power, at the request of a school staff member to another school or to another teaching or pedagogical position. There is only one condition: «provided his salary is not reduced» (sect. 229).

Such latitude given to the school board contravenes the elementary rules of justice in matters of labor relations. It leaves too much room for arbitrary decisions. In this regard, it is essential to respect the mechanism provided for in the collective agreements as well as by management policies.

- Criteria to facilitate integration of pupils with disabilities (sect. 204)

  «The school board may draft, on the recommendation of the advisory committee on services for pupils with social maladjustment or learning disabilities, the criteria for the provision of services for those pupils to facilitate their integration with regular classes».

  The integration of pupils with disabilities into regular classes has such educational and social repercussions that it must rest upon solidly established criteria. Moreover, the means to support and gradually proceed with integration must be provided.

. Taxation

Not only may the elector vote for the school of his choice, but he may also choose the linguistic school board where he wishes to pay his taxes (sect. 540, 507, 257).

In the case of a legal person whose linguistic status is not determined, inscription is made on a pro rata basis according to the number of pupils in the schools situated in the common territory of the francophone and anglophone school boards.

As a commentary, it may be said that the freedom given the voter to choose the linguistic school board, together with the determination by the clerk of the assessment role indicating the francophone or anglophone owners of immovables, may lead to unforeseen and, at times, unfair anomalies concerning the share of taxes remitted to the school boards. It could well happen that some electors would attach greater importance to their pocketbook than to their language, in the case of notable differences in taxation rates among certain linguistic school boards.

The government must at all costs find out how to solve the problems arising from the overlapping of the territories of linguistic school boards before enacting by law the procedure for equitable collection and distribution of school taxes.

CHAPTER 5 : The Ministre de l'Education and the Power of Regulation (sect. 292-311)

In the White Paper as well as in the Bill, the responsibilities and powers of the ministre de l'Education are not given detailed attention. Nonetheless, the persons and groups heard by the Conseil had much to say on the subject. Their testimony must first be recalled before analyzing a few sections of the Bill.

Role and presence of the State in education

The responsibility of the State in education is based on a certain number of fundamental principles directed primarily to the ends of education[71]. One question was thereupon raised by most participants in the education system during the Conseil's hearings: in order to realize the general goals of the education system - democratization, accessibility, equality of chances - is it essential that the State be omnipresent as a central or regional authority, controlling all the activities of all the other authorities in the system, with its innumerable directives, and thus leaving them so little margin of manoeuvre?

The answers given by the various parties bring the Conseil to make the following remarks:

1° All of the groups consulted by the Conseil consider that the ministère de l'Education is clear enough when dealing with the other participants in the system, but rather vague when dealing with its own reform.

2° A good number of the parties concerned, whatever their position in the system, fear and reject what is perceived as a take-over of the entire system by the ministère de l'Education.

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[71] Voir Part. One pp. 20ff.

3° Many deplore the lack of trust of the ministère de l'Education towards the other authorities in the system.

4° Some, however, point to the maturity and competence of those who work permanently in the system but do so outside the central or regional authorities of the ministère de l'Education.

5° Others fear both the omnipresence of the ministère de l'Education and the interventionism of the school boards, but given a choice between two evils, they still prefer the interventions of the school boards[72].

Looking to the future, the White Paper was open, notably in matters of pedagogy, to mechanisms of consultation[73] and participation of the schools and school boards. The fact remains that even recently the department seemed to consider the «great frameworks» as quasi-insurmountable barriers. As if the other authorities of the system could not, by their expertise, contribute to making the system more flexible. As if, everywhere else in the system, it were impossible to contribute to goals of the system, such as efficiency.

Any new arrangement of the education system should be based on the collaboration of all participants in education.

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[72] On the other hand, mention is also made of the «damper» role played by certain school boards which would further narrow down the margins of manoeuver left by the ministère de l'Education. This would be the case, for example, when the school boards deny themselves - and therefore their principals - the permission to interpret the «régimes pédagogiques» (education-policy) as liberally as they might.

[73] White Paper, p. 70. The Bill takes into account this open approach of the White Paper by introducing the concept of collaboration of the schools and school boards in the minister's own evaluation of educational matters (sect. 116 and 214).

The regional offices

As for the regional offices of the ministère, there is no objection to their providing support to the school boards[74]. But there is no desire that the regional offices replace the school boards in the role of coordinating the schools. It is important that the school boards continue to provide financial equalization and equality of opportunity within a given territory without the intervention of regional offices.

In the end, there is a consensus to the effect that school boards, and not regional offices «should form the primary regional forums where goals are defined, methods for applying policies and regulations determined, consultations carried out, resources shared, and differences expressed and settled[75]».

What the ministère de l'Éducation should change

Among the persons and groups the Conseil consulted, many believe that the governmental project displaces the powers of the school boards towards the schools without changing any of the powers of the ministère de l'Éducation. They question the intentions of the ministère who, after having confessed its sins[76], promises to amend its ways.

If reference is made to the educational objectives as they were presented, what must change are the ways of utilizing the means to ensure the realization of these objectives. Concerning pedagogy, the Conseil said in Volume II of its 1981-1982 Annual Report, L'activité pédagogique[77], that the ministere de l'Education should strive to introduce more flexibility into the «régime pédagogique» (education policy) by indicating more clearly the margins of manoeuvre.

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[74] Convention of the Federation of Parents Committees, December 1982, p. 38

[75] White Paper, p. 70.

[76] White Paper, pp. 29-30

[77] pp. 138-140

Concerning human, material and financial resources, there are a number of dialogues that could be initiated between the Ministère and other authorities in the school system. The Ministère must undoubtedly exercise leadership throughout the system. But this role could be improved if exercised within the framework of a frank and open dialogue. The Ministère at times gives the impression of monopolizing all «wisdom» and all «expertise». The consultations held by the Conseil reveal that there is, throughout the education network, much wisdom and expertise.

Some sections of the Bill

As a result of the Conseil's deliberations following its consultations, it seems appropriate to examine some sections which set off the roles of the State and the ministère de l'Education.

- Powers concerning pedagogy

1° Presentation

- The Ministre (sect. 292-299)
  - establishes the programs of required and elective subjects, which comprise compulsory objectives and conceptual contents and optional objectives and conceptual contents (sect. 292);
  - establishes the list ot textbooks which he authorizes (sect. 293);
  - establishes the list of elective subject not mentioned in the education policy and the list of subjects for which he imposes provincial examinations (sect. 294);
  - may establish criteria or conditions for assigning equivalences of studies (sect. 297);

  - may revise and moderate the results obtained in examinations (sect. 298);

  - grants secondary school diplomas and vocational diplomas (sect. 299);

- The government may, by regulation, establish an educative policy which deals with (sect. 308):

  - pupil enrolment and registration;
  - the school calendar;
  - the stages of elementary and secondary school;
  - the time prescribed for educational services ;
  - required and elective subjects;
  - the number of credits per subject;
  - evaluation of pupils learning achievement, the promotion of pupils from one grade to another or from elementary to secondary school;
  - the certification of studies;

  and the government may define what constitutes a teaching or an educative position.

2° Analysis

The enumeration of these powers of the Ministre and the government in matters of pedagogy corresponds to the conception one may have of the State's role in education. This is what the population has learned by experience in the field of education, in the last twenty years. These State powers were recently exercised, in 1981, by the proclamation of Regulations respecting the education policy at the elementary and secondary levels. The Bill will incidentally bring about amendments to these Regulations.

These Regulations, as they appeared in the sections of the Bill concerning the school, create a precise framework for the school's educational life.

If, for its part, the government truly wants to give the schools more responsibility - the Bill makes this a new goal of the education system - it will have to introduce more flexibility into its new regulations. Imagination and creativity within the schools, supported by the school boards, need encouragement and help from the State, which is in charge of the whole system. Within this context, new ideas which are the most conducive to the renewal of education in a society can be developed.

- Constituting an agency for the production of teaching material (sect. 307)

It is presumably in such a context of creativity that we must examine «the constitution of a non-profit agency composed majoritarily of teachers, and having as its object the production or evaluation of teaching material».

However, such an agency risks introducing unfair competition into the market for production of didactic material. As a matter of fact, it would receive government subsidies to produce didactic material.

The Conseil believes that such an agency should limit itself to a role of evaluating and making recommendations; it should not become involved in production. Through its evaluations, this new agency will be in a position to encourage the distribution of pedagogical instruments of quality.

. An «employer» State?

That the Ministre may grant a teaching permit to persons who meet the qualification norms or that he may revoke it, as the case may be, seems consistent with the State responsibility to ensure quality of education, in collaboration with the local and regional authorities of the school system.

But certain sections of the Bill respecting revocation or suspension of this permit are rather surprising. For instance, «any interested person may lodge a complaint to the Ministre against a teacher» (sect. 316). This «complaint shall be referred to an investigation committee composed of three members appointed by the Ministre» (sect. 319). During the investigation, the Ministre may «relieve the teacher of his duties» (sect. 318).

It is difficult to understand that the Ministre may in such a manner substitute himself for the school board which is «the employer of the staff required for its own operation and that of the schools» (sect. 219). Such an intrusion of the government must be avoided at all costs: it reveals a flagrant inconsistency of the Bill and constitutes a denial of the authority which has been conferred by law on another institution of the educational system. Moreover, such discretionary power given to the Ministre could give rise to arbitrary or even unjust decisions. The teaching profession must not be subjected to complaints or accusations typical of an authoritarian and technocratic régime.

The Conseil therefore believes that cases involving suspension or revocation must first be dealt with by the school board. And, if the matter is one for revocation, the school board should refer it to the Ministre who should see to it that the person concerned is heard.

- Spreading budgetary deficits or surpluses by school boards

Section 242 empowers the Ministre to «authorize a school board to spread its deficit or surplus over a period on the conditions and according to the modalities he determines».

Here again the Bill appears too generous regarding powers given to the Ministre. Good management of school boards can be ensured otherwise and without preventing them from exercising their responsibilities. This kind of reproach has already been made to the Ministre concerning his relations with the school boards.

In the opinion of the Conseil, the Ministre should determine a framework within which a certain degree of latitude is given to the school boards to spread their budgetary deficits or surpluses over a number of years.

- Placing a school board under trusteeship

Under the Bill (sect. 327, 328, 329), the Ministre «may request any person he designates to investigate the management and activities of the school board». During or after this investigation, the Ministre may «appoint an administrator to exercise the powers of the board of directors» of a school board whose management has been deemed unsound.

The powers of investigation and of placing under trusteeship are presently conferred upon the government under the Education Act (R.S.Q. I-14, 14) and the Act respecting Commissions of Inquiry (R.S.Q. C-37). The provisions of the latter Act offer greater protection for the rights of public institutions than do the proposed sections of Bill 40.

Therefore, in the Conseil's opinion, the powers of investigation and placing under trusteeship which the Ministre can exercise should remain under government jurisdiction.

CHAPTER 6: School Confessionality and Respect for the Rights of All

The Bill covers the confessional aspect of the school system at the level of the school, the school board, the ministère de l'Éducation and the confessional committees. Since this aspect concerns the system as a whole, it is first necessary to make a presentation of the sections on school confessionality, which are dispersed throughout the Bill. Starting from a clear perception of confessionality, as set out in the Bill's amendments, the Conseil will proceed to analyse what is at stake in school confessionality. Following its analysis, the Conseil will take a position on the confessionality issue in the context of the proposed restructuring on the school system.

Presentation: Confessionality in Bill 40

. Rights of persons

The Bill first gives the pupil «the right to choose between Catholic or Protestant religious instruction and moral instruction» (sect. 17, par. 1). This right is exercised, as early as kindergarten, by choosing between activities related to religious awareness and activities related to moral awareness. At the pre-school and elementary school levels as well as in the first two years of secondary school, parents exercise this right for their children. Students of the third, fourth and fifth years of secondary school exercise this right themselves.

Corresponding to this right that pupils have, section 79 states that each «member of the teaching staff has a right to refuse to give Catholic or Protestant religious instruction on the ground of freedom of conscience». And section 79 adds that «no member of the teaching staff may be dismissed, suspended or disciplined for exercising his right under this section». Section 80 describes the procedure to follow to exercise this right. Section 81 indicates that qualifications will be required, from the religious point of view, by the confessional committee concerned (R.S.Q. Chap. C-60 and section 474 of the Bill), in order for a teacher to be assigned to Catholic or Protestant religious instruction.

The rights of persons are further protected by Section 330 of the Bill. This section guarantees the «right and privileges possessed at the time of the coming into force of the Constitutional Act of 1867, by classes of persons respecting confessional schools». Section 330 covers specifically, concerning Bill 40, the Catholic and Protestant citizens of Québec.

- Confessionality at the school level

The first group of sections in the Bill is of primordial importance since it determines the very constitution of the school. At the outset, the Bill underlines that «the school is public and common» (sect. 30). This characteristic of the school allows it to integrate the values of the local community, to which it provides services, into its educational project. The Bill specifies in Section 31 that the values of the local community may be «the religious beliefs and values of any particular creed». Section 32 completes the group by enacting that, after consulting the parents, the school may apply to the Catholic or Protestant Committee (R.S.Q. C-60 and sec. 474 of the Bill) «for recognition as a Catholic or Protestant school». It is important to underline that, although applicable immediately, section 32 is supplemented by section 611, which allows the school to keep the «confessional status it had on July 1st, 1985» until July 1st, 1988.

All others sections on school confessionality, particularly section 474, derive from the sections on confessionality which condition the school's constitution.

Some of these sections concern confessional religious instruction, Catholic or Protestant. Section 101 is a corollary of the pupil's right to choose between Catholic or Protestant religious instruction on the one hand, and moral instruction, on the other. The public school, whatever its status (sect. 32), must offer «a choice between Catholic or Protestant religious instruction and moral instruction». The school's obligation to offer this choice places a certain burden upon it: the school must take the necessary steps so that each year, this choice may be exercised at the time of the student's registration; moreover, «the provision of Catholic or Protestant religious instruction or moral instruction, as the case may be, must enable each pupil to reach the objectives and acquire the content defined in the official programs of studies».

This choice, which the school must offer and the ensuing requirements are regulated by the confessional committees, Catholic or Protestant: «Catholic or Protestant religious instruction is given in accordance with the by-laws of the confessional committee concerned» (sect. 102). The jurisdiction of the confessional committees extends to the allocation of the required time[78] for Catholic or Protestant religious instruction, within the framework of the educational policy (régime pédagogique): «the school shall allow sufficient time to instructional services and other educational services to ensure that the compulsory objectives are reached and the compulsory content of the official programs of studies are acquired, and that the prescriptions, if any, of the appropriate confessional committee on Catholic or Protestant religious instruction are observed» (sect. 96).

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[78] At present, the Catholic committee, as far as it is concerned, has enacted by regulation that, at the elementary level, a minimum of 120 minutes per five-day week must be devoted to religious instruction; that, at the secondary level, an average of 100 minutes per five-day week must be devoted to the same kind of instruction (sect. 9 of the Catholic committee regulation).

Section 103 defines the limits of the choice between confessional religious instruction and moral instruction which the school must offer. For confessional religious instruction other than Catholic or Protestant, the school is not held to the same school organizational requirements. The religious community concerned is bound to provide the «confessional religious instruction dispensed by a designated person and remunerated by the religious group». The Bill stipulates a restriction for such religious group: the school may allow religious instruction, other than Catholic or Protestant instruction, to be given «provided that the compulsory objectives are reached and that the compulsory contents included in the official programs of studies are acquired, particularly regarding moral instruction». It is to be understood that religious instruction of this kind cannot be integrally substituted for Catholic or Protestant religious instruction. Only the latter types of religious instruction along with moral instruction are recognized in the official curricula.

The other sections on school confessionality concern pastoral animation services (Catholic) or religious animation services (protestant). After having stipulated that the school shall devise auxiliary services programs (sect. 109), the Bill details one of these services in sections 4, 5 and 6. The public school, whatever its status (sect. 32), must offer «to pupils registered as Catholics an auxiliary services program of pastoral care, on an individual or collective basis, in accordance with the regulation of the Catholic committee» (sect. 110); it «may also, on request, offer to pupils registered as Protestant, religious animation services in accordance with the regulation of the Protestant committee» (sect. 111); in the same manner as for Catholic or Protestant religious instruction, religious or pastoral services are regulated by the Catholic or Protestant confessional committees (sect. 474).

. Confessionality at the school board level

In a drastic modification of the existing situation, the Bill no longer gives any confessional character to school boards. Such is the meaning and result of sections 133, 137 and 138. A government order «shall specify the language status[79] of each school board» (sect. 133). «Each school board has jurisdiction over the schools in its territory, having the same language status as the school board» (sect. 137). And «a school board is administered by a board of directors composed of the commissioner for each school having the same language status as the school boards» (sect. 138). Henceforth, the status of school boards will be linguistic and non-confessional.

On the other hand, there will continue to be school boards having a confessional status: two school boards, one Catholic and one Protestant, within the territorial limits of the City of Montreal in 1867; and two other school boards: one Catholic and one Protestant, within the territorial limits of the City of Québec in 1867 (sect. 334 and schedule A of the Bill). These school boards will be governed by a special Act other than the Act respecting Public Elementary and Secondary Education (sect. 622).

Moreover, according to Bill 40, dissentient school boards such as those mentioned in schedule B will still exist: the dissentient Protestant school board of Baie Comeau, the dissentient Catholic school board of Greenfield Park, the dissentient Laurentienne Protestant school board, the dissentient Catholic school board of Portage-du-Fort and the dissentient Protestant school board of Rouyn. In effect, section 338 enacts that, in the territory of any school board (governed by Bill 40) - with the exception of those contemplated in schedule A, i.e. the four confessional school boards -

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[79] This aspect will be discussed as such in the following chapter.

«any number of property owners, tenants or ratepayers of the Catholic or Protestant faith, may exercise their right to dissent guaranteed by section 93 of the Constitution Act of 1867».

From another point of view, section 220 provides for a statutory post in each school board, where a person will be responsible for providing support to Catholic schools and for services providing Catholic religious instruction and pastoral care. It is stipulated that «the school board shall engage a person responsible for support to Catholic schools and for services providing religious instruction and pastoral care to Catholic pupils enrolled in the schools of its territory; that person must be authorized by the bishop of the diocese in which the corporate seat of the school board is situated». This post is understood to have a double responsibility: first, it involves all the Catholic schools, i.e. those schools with a recognized Catholic status (sect. 32). Second, this responsibility entails, in all public schools, with or without Catholic status, the provision of religious instruction and pastoral care to Catholic pupils enrolled in those schools.

. Confessionality at the levels of the ministère de l'Éducation and of the confessional committees

In Bill 40, the responsibility of the ministre de l'Education is linked to that of the Catholic and Protestant committees[80] who, in this regard, have the power to give their advice and make regulations.

The Ministre's responsibility arises when parents are consulted regarding a school's request for recognition as a Catholic or

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[80] A detailed analysis of the powers of these committees appears in Chapter 9 of the present study.

Protestant school (sect. 32). The Minister may, by regulation, «determine the conditions and modalities of consulting the parents on a request for confessional status of a school or an application for the withdrawal of the recognition» (sect. 309, 1°). Before adopting such a regulation, the Minister must consult the confessional committees (sect. 309, par. 2).

As far as the rest is concerned, i.e. confessional recognition per se, the education regulations concerning Catholic or Protestant religious instruction, Catholic pastoral or Protestant religious animation, and the qualifications of staff providing instructional or auxiliary services, jurisdiction ultimately rests with the confessional committees for all public schools in Québec. No program, list of objectives, teaching guide, textbook or teaching material is official without prior approval of the confessional committees, if it concerns Catholic or Protestant religious instruction, Protestant religious animation or Catholic pastoral animation (sect. 474). As for other subject matter in public schools, the Ministre shall, henceforth (according to Bill 40 and contrary to what is presently being done) transmit this material to the confessional committees, who may give their advice from the point of view of religion (sect. 475). The Ministre is no longer bound to submit curricula, textbooks and teaching material for the approval of the confessional committees from the point of view of religion and moral[81].

Analysis: What is at Stake in School Confessionality

Following the presentation of the relevant sections of the Bill concerning confessionality, it is necessary to point out what is at stake in this important aspect of the plan to restructure the school system. Our analysis will deal with two points: first,

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81. S.R.C. Chap. C-60, sect. 22, e).

confessionality and rights; second, confessionality in a non-confessional school system.

. Confessionality and rights

1° General Finding

An examination of confessionality as provided for in Bill 40 leads to the following general finding: the law does not provide equal rights for everyone.

In fact, the Bill differentiates between the rights of Catholics, the rights of Protestants and the rights of others.

The rights of Catholics are protected to a greater degree than those of others. This observation is true at both the school and school board levels. Thus, in the public school, whatever its status, auxiliary pastoral animation services shall be provided to pupils registered as Catholics; religious animation services may be offered to pupils registered as Protestants (sects. 110 and 111). On the staff of a non-confessional school board, only the Catholics benefit from a statutory post for the «person responsible for support to Catholic schools and for services providing religious instruction and pastoral care» to Catholic pupils enrolled in the schools whether or not the schools are Catholic, on the school board's territory (sect. 220).

Protestants and Catholics share the right to have their schools recognized as Protestant or Catholic by the Protestant or Catholic committees (sect. 32). These two committees supervise the observance of the rights of Protestants and Catholics in confessional or non-confessional public schools (sects. 474-475). The Legislator acknowledges the constitutional rights which belonged to Protestants and Catholics in 1867 (sects. 330 and 334). Finally, Protestants and Catholics may exercise their right to dissent, even from a non-confessional linguistic school board, according to the Bill (sect. 338).

As for the others, their right to freedom of conscience in the public school, whatever its status, allows them, if they belong to a religious group, to provide their children religious instruction in accordance with their beliefs[82]. Such instruction is to be given by a person designated and remunerated by the religious group, after agreement between the group and the school council (sect. 103). Finally, it is understood that those who do not belong to any religious group may exercise their freedom of conscience by choosing moral instruction.

2° Commentary

The Legislator, in 1867, obviously intended to give protection to the anglophone and Protestant minority within a predominantly French and Catholic Québec.

Based on this constitutional protection, two parallel education systems were developed: one for the franco-Catholic majority, the other for the anglo-Protestant minority.

The evolution of both systems up to the present time reveals that rights connected with school confessionality were exercised differently in the Catholic and Protestant sectors. In the latter sector, the Churches refrained from intervening and the Protestant character of the system did not prevent it from accepting without prejudice those who belonged to other religious or had none. In the Catholic sector, the Church demanded and obtained the right to provide the school's contribution to religious instruction. It was not always easy, in such a system, to further the expression of pluralism as it has developed in Québec.

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[82] Provided the restriction of section 103 is respected.

In a school system which continues to give priority to the rights of Catholic and Protestant citizens, how is it possible to satisfy the growing minorities whose rights are not being fully and fairly observed? In this regard, the consultations held by the Conseil concerning school confessionality are still relevant[83]. For example, anglo-Catholics object to being placed in a minority situation both as anglophones and as Catholics, by having no access to the management of the system in their own language. Within the franco-Protestant group, some prefer the pluralist school, others choose the evangelical approach. As for the other citizens, a certain number seem to prefer that no religious instruction be given in school. The members of the minorities described above ask why the school should not provide appropriate services related to moral education or to religious instruction other than Catholic or Protestant.

The dual confessional system[84], given to both Catholics and Protestants by the Constitution Act of 1867, is preserved to a certain degree in the Bill (sect. 330).

It is not for the Conseil to take up the constitutional question. It is, however, important to ascertain what is desirable and possible within a school system restructured on a linguistic basic.

The establishment of confessional enclaves in Montréal and Québec City reduced to the territorial limits of 1867, cannot be a valid response to the affirmation of Protestant and Catholic rights in the contemporary social context. Responsible citizens and authorities can surely not be satisfied with this solution and must seek other means of

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83. See Confessionality and the Schools of Québec (August 1981).

84. See the following development: confessionality within a non-confessional school system.

avoiding a - to say the least, paradoxical - situation where confessional school boards find themselves practically without any school clientèle.

As for the right to dissent (section 338), which is also a constitutional one, it does not seem logical that the Bill should allow this right of Catholics and Protestants to be exercised in the linguistic school boards. Extending the right to dissent carries the risk that both Catholics and Protestants will endeavour to rebuild, piece by piece, their former confessional system right inside the linguistic system created by the government. Such a possibility is undesirable and should be obviated.

. Confessionality in a non confessional system

1° Findings

When placing rights in perspective within the whole plan to restructure the school system, the following finding is inescapable: Confessional status and provisions guaranteeing confessional rights are not allocated equally among the various institutions in the school system.

At the intermediary level of the system, the restructuring plan sets up non-confessional organizations structures. Henceforth, school boards will have a linguistic status, excepting two specific areas, school boards in Québec City and Montréal. These two cities will still have the Protestant school board of Québec City and the Catholic school board of Québec city, the Protestant school board of Montréal and the Catholic school board of Montréal.

At the school level, confessionality is emphasized rather than de-emphasized. As a matter of fact, supposing the arrangements concerning school confessionality are adopted without amendment, they would statutorily incorporate what previously appeared in confessional committee regulations or merely in commentaries on such regulations.

Examples of this are the sections of the Bill concerning the school's obligation regarding confessional religious instruction (sect. 101), the allotment of time for such instruction (sect. 96), and pastoral services (sect. 110). These various subjects were not previously included in the Education Act, which would be replaced[85] by Bill 40.

At the upper echelon of the system's structures - the denominational committees - the Bill restricts their jurisdiction[86], ipso facto weakening the importance of confessionality in the restructuring plan. However, the Bill at the same time preserves the confessional duality of the system, thus enhancing the statutory preeminence granted to Protestants and Catholics. Indeed, not only administrative measures but also rights remain governed by a bi-confessional system (sects. 17 and 32).

2° Commentary

With a school restructuring plan which unevenly distributes confessional status and guarantees of rights among the various levels of the education system, a close look must be taken at the prospective relations between the various institutions of the system. It is especially important to pinpoint the probable effects of this distribution of rights on the way confessional education will be experienced.

Bill 40 creates a network of English and French schools belonging to linguistic school boards. However, if the Bill is adopted as is, each English or French school may also be Protestant or Catholic or non-confessional.

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[85] More specifically, the Bill replaces Parts I to IX of the Education Act. The other Parts concern the Cree, Kativik, Naskapis school boards and another particular item.

[86] See Chapter 9 of the present study.

For a certain number of French schools recognized as Catholic, the confessional question may present itself in a rather new way. Pluralism will increasingly characterize the respect due to rights and the reception of all pupils in the public school. Franco-Protestants of either the evangelical or the «free-thinking» group will expect their rights to be respected in very different ways. The latter will demand a school open to the unconstrained expression of freedom of conscience. The former may demand instruction in conformity with the requirements of their denomination, since the pupil's right, as guaranteed by section 17 of the Bill, amounts to a choice between Protestant or Catholic religious instruction, and moral instruction. The same French school would therefore have to guarantee two types of religious instruction, one Protestant and one Catholic; in accordance with the education policy or «régime pédagogique», these would be given by government-paid teachers. This new phenomenon would inevitably increase the distortion already observed in the respect due to the rights of religious minorities other than Protestant or Catholic. These minorities, in accordance with section 103, cannot expect more than religious instruction given at their own expense.

This new way of experiencing school confessionality, as a result of the presence of franco-Protestants in previously exclusively Catholic French schools, poses with a greater acuteness the questions already raised: that of the constitutional right[87] of Protestants and Catholics concerning the confessional education and that of the right to dissent granted to both groups, when they are in a minority position.

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87. Legal interpretation, a domain which is not the Conseil's, will have to determine if the 1867 Legislator enacted a law for the anglophones (who were also Protestant) or if the constitutional rights also apply to the francophone Protestants.

In the English schools, particularly in a concentrated urban area such as Montreal, there should still be a good number of schools recognized as Protestant or Catholic under the same non-confessional linguistic school board. In these schools, whether the students are in majority Protestant or Catholic, confessional education and guarantees of confessional rights should be effectuated distinctly, in accordance with the dictates of their respective beliefs. Protestants will continue to provide confessional education as they are accustomed to it, i.e. in a pluralist way, providing religious instructional services and religious animation without reference to any particular faith. For Catholics, the English school will reflect the full reality of the Catholic school's educational project. This would reflect the feelings expressed during the Conseil's consultations.

In the regions outside Montreal, the «confessional cohabitation» between Protestants and Catholics, already tried by the anglophones, might become more frequent. This confessional cohabitation in the schools, instead of being managed in accordance with agreements reached between Protestant and Catholic school boards, will be managed under a single linguistic school board.

The new confessional arrangement of the whole school system will therefore bring about new relations between communities, particularly in day-to-day school life. For religious minorities and persons without religious affiliation, respect for the right to freedom of conscience and religion appears first in the context of linguistic structures. For the French Catholic majority, and the anglo-Protestant minority, confessional rights remain undiminished and are, in some respects, strengthened. A restructured education system would still be entrusted with the very important obligation of satisfying the rightful demands of other citizens, while it would also have to protect the privileges of Protestants and Catholics.

Position taken: Confessionality viewed from an educational perspective

. Preliminary remark

The Conseil has already expressed its views on school denomination within the existing organizational structures[88]. Therefore, before again taking a position on the subject of confessionality in the restructuring plan, the Conseil believes it essential to review the main points of its previous analysis. These points seem just as relevant today.

First, the Conseil approached confessionality from the viewpoint of school experience rather than from the viewpoint of structures. By viewing confessionality from an educational perspective, it placed itself in the mainstream of popular expectation. Most people want a truly educational school providing either religious or moral education which respects the rights of all. In consequence, the Conseil hoped that schools, particularly in the regions of Montréal and Québec City would increasingly experiment with a pluralistic approach.

Second, the Conseil set out a few principles underlying confessional rights, in the following propositions:

> that the right to freedom of religion and the principle of non-discrimination be respected as a requirement of the Québec education system and, as a consequence, that all changes to confessionality in the schools be guided by this right;

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[88] Confessionality and the schools of Québec, August 1981.

that in the Education Act:

- be introduced a section guaranteeing parents and children the freedom of choice of religious or moral teaching according to their convictions as well as the freedom to participate or not in the pastoral activities;

- be introduced, also, a section guaranteeing teachers the freedom of delivering confessional religious teaching or not.

The Conseil also requested that the Catholic Committee amend its system of exemption from confessional religious instruction to a system permitting choice between Catholic religious instruction and moral instruction. Since the Catholic committee acceded to this request, the Legislator included this right in section 17 of Bill 40: «Every pupil has a right to choose between Catholic or Protestant religious instruction and moral instruction».

. The Conseil's basic approach

1° Presentation

The Conseil's basic approach revolves around the choice between religious instruction and moral instruction (sects. 17 and 103), also around the educational project and school confessionality (sects. 30, 31, 32).

The conseil believes:

- that the school must offer its pupils a choice between religious instruction[89] and moral instruction;

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[89] While Catholic religious instrudtion is related to a single faith, Protestant religious instruction is not; for others, religious instruction is considered as a cultural phenomenon.

- that the school's educational project may include moral and religious values related to a particular faith;

The Conseil is not in a position to state whether the public school should or should not have a confessional status recognized by the Catholic or Protestant committee.

2° Commentary

The Conseil's first proposition, by its general character, intends to provide a non-discriminatory choice between religious instruction and moral instruction. The Conseil would now like to make its general proposition more precise, as follows:

- In a public school, the Legislator is jutified in first requiring from all citizens «that the compulsory objectives are reached and that the compulsory content included in the official programs of studies are acquired, particularly regarding moral instruction» (sect. 103).

- Religious instruction as a choice offered by the school to the pupil, must therefore be subject to the guarantee that the compulsory objectives are reached and that the compulsory contents included in the official programs of studies regarding moral instruction are acquired;

- This condition should be considered as a subject for decision by the school council, which will determine when religious instruction may be offered for the pupils to choose, and which will determine whether such instruction may replace moral instruction, as in the case for Catholic or Protestant religious instruction.

Consequently, the restrictive and discriminatory sections of the

Bill concerning religious instruction other than Protestant or Catholic should be deleted. Once approved and offered for the pupils to choose by the school council, religious instruction should not be at the expense of the religious group concerned, as provided by section 103 of the Bill. Such instruction would be put in the timetable, like any other subject observing the regulations respecting the educational policy, «régime pédagogique».

The Conseil's second proposition is based on the principle of non-discrimination as well as on the educational perspective expressed in the Conseil's previous recommendation. In practice, the specific character of a school and its educational project is shaped by experience before being recognized or sanctioned by an extrinsic rule. In the more pluralistic communities, realizing an educational project may include a common sharing of moral and religious values in mutual respect of one another's convictions. In the more homogeneous communities which still exist, school participants may also set up educational projects reflecting their views; in such cases, the expression of commonly shared convictions may lead to a more explicit relationship between moral and religious values and a given denomination. This would be the case, for example, of the French or English schools with a majority of Catholic pupils.

The Conseil feels that it can go no further in the basic approach it proposed concerning school confessionality and the restructuring of the school system. The Conseil is aware that for some persons, a school educational project that may relate to a particular denomination is not enough; they need statutory confirmation, some form of official recognition. On the other hand, the Conseil is also aware that other persons consider the status of a Catholic or Protestant confessional school recognized as such to be discriminatory. The Conseil is aware that in practice, such status sometimes preserves priority rights for Catholics and Protestants without truly reflecting reality.

On this crucial point, the Conseil can only recall what was a leitmotiv of its consultations preceding its previous recommendations: «The truth about school confessionality must be shown». Such truth would emerge from school experience, which is not in contradiction with section 32 of the Bill: «The school may, after consulting the parents, apply to a Catholic or Protestant committee (...) for recognition as a Catholic or Protestant school». The regulations concerning consultation of the parents, which are the minister's responsibility (sect. 309, 1°), and the regulations concerning the request for recognition or revocation of recognition, which are the confessional committees' responsibility, will be of prime importance. In short, they will be the framework wherein the school may or may not show the truth about school confessionality.

Nothwithstanding these rules and regulations, the Conseil cannot take a firm stand and declare whether it is preferable to keep section 32 or strike it out, whether the confessional committees should or should not have power to recognize schools, and whether public schools should or should not be recognized as Catholic or Protestant.

In short, the Conseil has concentrated its advice on what school experience will reveal, without being able to come to a definite position on the question of school status.

Finally, it should be noted that the Conseil will elaborate on its position concerning confessionality in its analysis of intermediate structures (Chap. 7), the higher structures of the system (Chap. 9), and transitional provisions (Chap. 10).

. Miscellaneous sections of the Bill

It remains, in the present chapter, to examine how the Conseil's fundamental approach is reflected in some specific sections of the

Bill dealing with arrangements concerning fundamental rights as experienced and exercised in school.

- The teacher's right to refuse to give confessional religious instruction

A member of the teaching staff has the right to refuse to give Catholic or Protestant religious instruction on grounds of freedom of conscience. He may not be dismissed, suspended or disciplined for exercising his right (sect. 79 and 80).

The right, which the Conseil called for in its previous recommendations on «Confessionality and the schools...», is a general principle; its application must be free from discrimination, notably in the school which has requested and obtained confessional recognition.

- Personnel qualifications

Section 81 stipulates that to be assigned to Catholic or Protestant religious instruction, a person must have the religious qualifications determined by the appropriate confessional committee.

In connection with this section, the Legislator should stress the general qualifications for staff members, notably concerning moral and religious instruction, whether of Catholic or Protestant confession or otherwise.

- Quality of teaching

The Legislator takes the troubles of pointing out that the school administration must foster the quality of Catholic or Protestant religious instruction and moral instruction, notably by taking steps to allow the pupil to reach the objectives and acquire the content defined in the official programs of studies (sect. 101).

These measures should apply to every form of religious instruction, whether related to a confession or not, in order to ensure quality of education, which is what people are concerned about.

- Auxiliary services programs respecting pastoral or religious animation

Sections 110 and 111 should be amended in order to allow not only pastoral animation for Catholics or religious animation for Protestants, but also animation for any religious group with whom a school council has come to an agreement authorizing it to provide religious instruction.

Other types of activities in line with the official programs of studies concerning moral instruction should be included in the law in the same way as pastoral and religious animation. Such activities, being an extension of moral instruction, are essential to ensure that the objectives or moral education, as intended by the Legislator for all citizens, are reached.

- Support for Catholic schools, for religious instruction services and pastoral care provided to Catholic pupils

The school board must hire a person responsible for providing such support in the schools of its territory; this person must be authorized by the bishop of the diocese in which the corporate seat of the school board is situated (sect. 220).

This statutory support staff post must be viewed in the context of the school board's general responsibility for providing «support for the educational organization of its schools» (sect. 206).

If this post is considered important for Catholic religious instruction and pastoral care given to pupils enrolled as Catholics in the schools in a school board's territory, a similar post is just as important to support moral or religious instruction approved for any school, as well as to support other activities related to such instruction.

The Legislator should therefore amend section 220 of the Bill in order that it not be exclusive to one Church. Thus, it should stipulate that school boards, with the approval of those Churches or groups concerned, may hire the type of support personnel described in section 220, for religious instruction.

CHAPTER 7: Non-Confessional and Linguistic Intermediate Structures

Various points of view concerning school board restructuring

In the course of the Conseil's consultation, opinions concerning school board restructuring generally centered on three questions: should school boards remain confessional or not? Should they be unified and provide coordination of French and English schools on the same territory? Should they have a linguistic character, some grouping French schools, others, English schools, in distinct territories? It seems appropriate to examine the various positions before stating the Conseil's position.

. Confessional school boards?

Despite the increasing and obvious difficulty of respecting the rights of all within confessional organizational structures, some groups today still insist on keeping confessional school boards. This attitude is found among the francophone and Catholic majority as well as among the anglo-Protestants. The main representatives of their approach are among the Catholics, the members of l'Association des parents catholiques du Québec and, among the anglo-Protestants, the representatives of the school boards.

However, each group's reasons for maintaining intermediate confessional structures are different. Among the Catholics, the desire is to preserve integrally a system that has served the Catholic majority well: the system is thought to be generous enough to provide the «others» with structures that meet their needs, without having to alter the confessional structures of the majority. Among the anglo-Protestants, the desire is to preserve a systeme that has allowed the anglophone community to develop and organize autonomous organizational structures; the view is held that these intermediate organizations enjoy an excellent reputation.

In both cases, any change is viewed as a threat, either ot Catholic educational orthodoxy or to anglo-saxon Protestant cultural identity. For Protestants, substituting linguistic structures for confessional structures is also threatening, as will be seen hereafter, because they would no longer be alone in managing organizational structures which they have patiently built up.

For Catholics as well as for Protestants, the tendency to integrally maintain intermediate confessional structures is based on history and tradition, which, although different for each group, have their own character and cultural value. However, at the same time as they defend their rights and vested interests, those who hold this position are confronted with the challenge of today's society evolving towards greater pluralism.

From the point of view of educational rights only, previous legislation has not always been clear. For example, Catholics and Protestants were able to live with the Act respecting the Regrouping and Management of School Boards, sanctioned on July 10, 1971, establishing school boards with jurisdiction, as the case may be, over Catholics or Protestants[90]. In consequence, they have been able to keep expanding their confessional intermediate structures to this day. However, the present government is admittedly endeavoring to introduce greater clarity and consistency into its legislation. The history of intermediate organizations shows that non-confessional school boards were considered at certain times. Thus, for example, the Parent Report recommended that «no confessional character be acknowledged by law to school boards and college boards, notwithstanding that such law may oblige them to provide, as the case may be, Catholic, Protestant or non-confessional instruction[91]».

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90. S.R.Q. 1971, Chap. 67, sect. 74.

91. Recommendation No. 2 of the Royal Commission of Inquiry, Vol. 4, p. 91.

In its 1966-1967 Report, the Conseil supérieur de l'éducation [92], approved by a majority the Royal Commission of Inquiry's recommendation.

Today, the Conseil can only reiterate its prior position, particularly considering the present difficulties of the authorities responsible for seeing to the equitable respect of everyone's rights. The problem is in reconciling at the same time the public character of school boards as local governments, the demand for universal suffrage. as it is at present provided for by these intermediate structures, and the demand to preserve confessional school boards. Respect for citizens' rights is not limited to the fundamental rights of freedom of conscience and religion, however important these may be: it also extends to democratic participation in the management of public institutions, which should be accessible to every citizen. The Conseil therefore believes it preferable that school boards eventually become non-confessional. There seems to be two possible solutions: unified school boards or linguistic school boards.

Given this choice, the Conseil has sought to find out which of these two hypotheses stands a better chance of being accepted by the population at large, while, at the same time, answering the needs and aspirations of Québec society.

. Unified school boards?

The governement's first intention, as expressed in the White Paper on the restructuring of the school system, was to have unified intermediate structures within the school system. With the exception of the Island of Montreal where anglophones form a greater and more homogeneous group than elsewhere in Québec, school boards would have been unified, therefore non-confessional and French.

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[92] Conseil supérieur de l'éducation, 1965-1966, 1966-1967 Reports, «Advice to the Ministre de l'Education on the recommendations of Vol. 4 of the Commission of Inquiry Report», p. 317.

The position held by the White Paper reflected a recommendation of the Parent Report which, in 1966, proposed the establishment of unified school boards[93]: «We recommend that a single regional school board administer all instruction, whether Catholic, Protestant or non-confessional, whether given in French or English, the whole within the limits of a given territory». Subsequently, the Conseil supérieur de l'Education, by a majority, approved this recommendation of the Parent commission[94].

There are weighty arguments in favor of this option. Unified school boards would satisfy much better the usual criteria for a public institution, such as a municipality, created to provide services to all citizens. The greater rationalization of the system would not only reduce costs but also eliminate inevitable territorial overlapping, as is the case for confessional school boards and, as would be the case for linguistic school boards. In addition, the school situation in Québec would reflect more closely the situation existing in the predominently anglophone provinces of Canada.

On the other hand, rationalization of the system would be incomplete, stopping where the greatest concentration of anglophones begins - on the Island of Montreal. There would still be two systems, one linguistic, the other unified. Moreover, within the unified system, having a linguistic committee would be small consolation for the anglophone minorities scattered outside of Montreal. as it would be left to play the role of an anglophone school board under a unified school board[95]. It is far from clear that such a system would improve efficiency. At any rate, the obvious loss would be the originality of the present intermediate educational structures, which are not comparable to any other public institution. Being both educational and administrative institutions, school boards maintain relations with the school of their territories so as to meet common educational objectives. It is essential to bear this characteristic of school boards in mind, if restructuring is to be carried out with due respect for the fundamental principles set out in Part One of the present study.

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[93] Recommendation No. 37 of the Royal Commission of Inquiry on Education, Vol. 4, p. 180.

[94] 1965-1966, 1966-1967 Annual Report, p. 318.

[95] Paul Tremblay, loc. cit., p. 253.

. Linguistic school boards?

Many objections are raised against the establishment of linguistic school boards throughout Québec. Québec is not a bilingual but a French province; setting up two linguistic structures would help institutionalize bilingualism and increase the already too great power of anglophones to assimilate others. The existence of the anglophone minority in Québec does not justify implementing measures here that would apply to a province that was half French and half English[96]. To these arguments can be added those concerning overlapping territories, and higher costs due to the distance of anglophone schools outside the region of Montreal. Finally, it is pointed out that linguistic structures would perpetuate the «Two Solitudes» - the francophone and the anglophone communities.

On the other hand, the argument in favor of linguistic school boards stresses the cultural differences of the two communities, which actually tend to create distinct educational entities. When dealing with education and instruction given by schools and school boards, language and culture are intimately linked. Absolute administrative efficiency must take second place to social and cultural arguments. Furthermore, establishing linguistic school boards is not necessarily in contradiction with the characteristic of a francophone society affirming its identity more clearly. While respecting rights concerning language and religion, such an arrangement could even restore some equity for the anglo-Catholic community which, up to now, has generally been excluded from managing such essential intermediate structures as school boards.

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[96] Among the groups consulted by the Conseil, L'Association des cadres scolaires du Québec informed it of the New Brunswick experience where, after one hundred years of unified school structures, it was found preferable in 1974 to set up linguistic school board. This leads to superimposing two school boards, one for francophones and one for anglophones.

Whatever the arguments, for or against intermediate linguistic structures, it may be stated without much risk of error that a certain consensus is growing on the concept of restructuring school boards on a linguistic basis. The Conseil's consultations, in this regard, are convincing. Many participants, anglophones as well as francophones, prefer linguistic school boards. They are thought to be an acceptable historical compromise, the one having the best chance of success. A school system will have a greater chance of developing if it is based on a pragmatic consensus rather than on an ideal rationale lacking any «grass roots» basis.

The Conseil's position

The Conseil believes that school boards must have a linguistic status.

Ensuring the best possible coordination of school and school board activities aimed at meeting common educational objectives depends on a favorable cultural environment which will generally be brought about by communicating in the same language.

Intermediate linguistic structures are therefore in a position to favor the aspirations of the various communities as well as a smooth administrative operation consistent with the special nature of school boards within the whole school system.

The position taken by the Conseil supposes that criteria favorable to the development of anglophone communities will be determined. For example, three zones can be identified on the Island of Montreal: East, Central and West. Outside the Island of Montreal, the peripheral areas north and south of Montreal should be taken into account. In the eastern part of the Province, the Québec City region should be considered as such, as should the Gaspé region. The western region would complete the picture[97].

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[97] Those calling themselves «The Group of Seven» propose a solution identifying a school board for each of the regions mentioned, i.e. nine anglophone school boards which, in the Province, would replace the 26 anglo-Protestant school boards and, on the Island of Montreal, the two anglo-Protestant school boards as well as the six anglophone sectors of the Catholic school boards.

Associations representing Educators in English Catholic and Protestant Schools, typewritten paper with maps, December 1982.

PART THREE

Implementation and Provisions of Concordance

PART THREE: Implementation and Provisions of Concordance

In this Part of its study, the Conseil will deal with questions of implementation and provisions of concordance. It will also examine transitional provisions related to implementing the plan to restructure the school system.

CHAPTER 8: Implementation of Bill 40

Integrating elementary and secondary school boards

The Bill overlooks the question of the integration of existing school boards responsible for either elementary schools or secondary schools or for both.[1] This question cannot be ignored since the Bill intends to complete within one year what has often taken much longer in communities where integration is now a fait accompli.

The notion of integrating elementary and secondary school boards still raised administrative and organizational questions in many minds. For example, it is feared that the secondary schools might outweigh the elementary schools in the new integrated school boards. Or, on the contrary, it is feared that secondary schools might not get their fair share under a school board where elementary schools outnumber them.

On the other hand, from an educational point of view, integrating the elementary and secondary levels may facilitate the response to a growing need for continuity in compulsory public education. The vitality of educational activities in the elementary school might encourage the secondary schools to avoid a narrow preoccupation with specialized subjects.

From an administrative efficiency point of view, it is generally agreed that integrating school boards offers more advantages than disadvantages.

Integration reduces the number of school boards and brings about cost savings through greater rationalization of services.

For both these reasons, educational and administrative, the Conseil unhesitatingly approves integrating school boards, a phenomenon already under way in several regions. While the transition takes place - which should be soon - care should be taken that «integration» does not translate into «absortion» of elementary school boards by regional school boards or vice versa. A close scrutiny of regional disparities should bring about specific and varied solutions.

Once the school boards are integrated, they can, upon the request of their clientele, proceed to join the first cycle of the secondary level to the elementary level in schools under their jurisdiction. In concluding, it is important to take the time required to ensure that integration takes place smoothly.

The new school maps

The Bill does not deal directly with the question of the new school maps[98], as did the White Paper. The Bill gives the government the power to determine by degree the territories of the new school boards

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[98] The sections of the Bill concerning implementation of school restructuring give reason to believe that the new map will already be made when implementation takes place. This assumption was confirmed by the circulation in school milieu of a working paper entitle «Territoires des commissions scolaires prévues dans le projet de Loi 40: (School board territories contemplated by Bill 40: An Act respecting public elementary and secondary education), Direction générale des réseaux du ministère de l'Education, Québec, July 1983, 330 p.

(sect. 354 and 336). But it does not indicate the criteria used by government to determine these new territories.

The new school maps will inevitably have to take into account the inherent constraints of linguistic as well as integrated school boards. The linguistic character of the new school boards will necessitate two superimposed school maps, one grouping francophone schools and school boards, the other, anglophone schools and school boards. These new maps will replace those in existence for Catholics and Protestants. Both new maps will delimit the territories grouping, for each integrated school board, the elementary and secondary schools.

Whether the new territories of the school boards will coincide with those of the regional county municipalities (RCM), the Bill does not say. The concept of having the two territories coinciding, as stated in the White Paper, was not a priori dismissed by the groups the Conseil heard. However, no one considers it as a sine qua non criterion.

The idea of bringing the school board limits to coincide with those of the RCM loses further ground when the opinion of the RCM themselves on the question is heard: they have absolutely no desire that the school board and municipal maps coincide and especially do not wish the RCM to become involved in the school question[99].

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99. Consultation of the RCM, December 3, 1982. Notwithstanding this important reservation and while respecting certain «natural» limits, both municipalities and school boards would undoubtedly benefit by having certain services in common and perhaps even certain human resources in common. Integrating school boards will free qualified manpower that would presumably be interested in managing common services rather than waiting for new offer of work.

The implementation commission and its committees (sects. 340-402)

1° General presentation

The Bill creates a provincial implementation commission which, in turn, will form two linguistic sub-committees, an executive committee of the commission and implementation committees on the territory of each new school board.

The commission and its committees are given wide-ranging powers in order to implement the school restructuring plan during the period beginning on the day the Act respecting Public Elementary and Secondary Education receives official sanction, and ending on Jule 30, 1985. The commission and its committees however need not be dissolved on this date if the Ministre decides on their prolongation (sects. 343, 357, 373).

Such an imposing implementation mechanism was probably inevitable, considering the magnitude of the restructuring plan and the time allotted. It is clear that the provisions for appointment of committee members and for the composition of the committees are discretionary.

2° Detailed presentation and comments

- composition of the commission (sect. 340)

The commission is to be composed of representatives of school boards, parents, school board directors-general, school principals, school board senior staff and school staff members.

The Ministre is to determine the composition of the commission and appoint its members.

On this point, the section of the Bill should mention that each representative is recommended by his association. This would guide the Minister in his choices.

Concerning composition proper, the section should specify the presence of teachers and complete the roll with other members of school staffs and other persons designated by the Minister. The presence of teachers at such an important phase of school reform is essential if the Legislator wishes them to be participants in the school system and not simply those who carry out orders.

. Composition of the executive committee of the commission (sect. 355)

The executive committee is to be composed of the chairman of the commission, appointed by the Minister (sect. 341), a member of each of the francophone and anglophone subcommittees and four persons chosen by the Minister from the members of the commission.

It is preferable that the latter four persons be appointed by the commission members themselves. The members of the commission, once appointed by the Minister, following the recommendation of the various associations, could in this manner contribute appreciably to the formation of the commission's executive committee.

. Functions and powers of the commission and of the executive committee[100]

The commission will be the organization responsible for taking the necessary steps to see that the Act is enforced in the territory of each implementation committee (sects. 347, 350).

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[100] It is to be noted that the Bill specifies the «duties and powers» of the commission and of the executive committee. In the chapters of the Bill concerning schools and school boards, cross-references have to be made to find out that functions and duties also include powers.

The executive committee of the commission is to be responsible for coordinating the activities of the implementation committees (sect. 361). It will settle any dispute between implementation committees (sect. 363) and may even substitute its own decisions for those of an implementation committee (sect. 366).

It is appropriate that jurisdictions have been clearly defined in order to prevent, as much as possible, any hitches in the implementating process.

The commission has the power to approve plans of the implementation committees and to obtain any information required from them. However, in the determination of territories for the new school boards, the commission only has a power of recommendation to the government, which keeps the power to change such territories, by decree.

The powers of the executive committee of the commission are analogous, in certain respects, to the powers of a commission of inquiry (sect. 364).

. Composition and functions of the implementation committees

The implementation committee established in the territory of every new school board (sect. 367) is composed of a chairman, representatives of the parents and the commissioners of each existing school board, and the director-general of the new school board.

Some differences must be noted between the composition of the provincial commission and that of each implementation committee. The chairman of the implementation committee is appointed after consultation with the other members of the implementation committee; the commission chairman is appointed without consultation. It is also to be noted that the implementation committee is in majority composed of people from the community while the provincial commission is in majority composed of persons working in schools and school boards as senior staff or professionals.

As for the functions of the implementation committee, it should first be underlined that they shall exercise, for the duration of the implementation period, the powers conferred on the school boards (sect. 371). During this time, each implementation committee «is», so to speak, the school board. The new school board exercises but a few powers relating to personnel assignment and budgeting for fiscal 1985-1986 (sects. 389, 397, 399 and 400). The existing school board is reduced, upon adoption of the Bill, to the role of tax collector (sect. 406) and must be at the service of the various implementation committees in its territory (sects. 404, 405, 407, 408 and 409). This manner of distributing powers among these three bodies is not acceptable in its present form. The implementation committee has enough work on its hands without the existing school board having to refer to it for everything. There are risks in reducing the powers of the existing school boards so hastily. One has only to think of the situation in the Island of Montreal, for example.

This implementation committee is to issue the schools their constituting deeds after establishing the list of schools in its territory (sect. 382). This committee sees to it that the board of directors of the new school board holds its first meeting no later than November 30, 1984, after the elections held on the first Sunday of the month of November (sects. 387 and 139); it also sees to it that the school board is able to operate as of July 1, 1985 (sect. (388). This date[101] is the time limit fixed by the Bill for preparing and coordinating all operating plans: the new school board staff plans, personnel transfer plans, etc.

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[101] However, at the request of a school council, the implementation committee must establish a calendar distributing the provisions of the Bill concerning the school councils between July 1, 1985 and July 1, 1988.

It is obvious that the implementation committee is a key organization in the implementation of the restructuring plan. Composed of representatives of the community who may receive allowances determined by the Minister (sect. 372), this committee will necessarily have to hire personnel (sect. 375), if it intends to carry out the gigantic task awaiting it. After reviewing the general powers of this committee, it appears clear that the various school communities will look forward to having the most representative and capable persons of this committee in order to implement the restructuring plan under the best possible conditions for success.

CHAPTER 9: «Provisions of Concordance»*

The Act respecting the Conseil supérieur de l'éduation

. Provisions concerning the Conseil itself

1° Presentation

According to section 310 of the Bill, the following matters are to be submitted to the Conseil supérieur de l'éducation, for examinating before they are published in the Gazette Officielle du Québec:

Any government regulation that may (sect. 308):

- extablish an educative policy as the basis of school organization; the policy may concern:
  - a) pupil enrolment and registration;
  - b) the school calendar;
  - c) the cycles of elementary and secondary school;
  - d) the time prescribed for educational services;
  - e) the required and elective subjects;
  - f) the number of credits per subject;
  - g) evaluation of pupils' achievement and the promotion of pupils from one grade to another and the passing from elementary school to secondary school;
  - h) the certification of studies;

- define what constitutes a teaching or an educative position.

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* Chap. XI, Div. I.

Any regulation of the Minister that may (sect. 309):

- determine the qualification standards and other requirements for the issue of a teaching permit and the procedure of issue;

By virtue of section 476, section 30 of the Act respecting the Conseil supérieur de l'éducation is amended by adding the following paragraph at the end: «This section does not apply to matters governed by the Act respecting Public Elementary and Secondary Education».

Section 30 of the Act respecting the Conseil supérieur de l'éducation would therefore read as follows:

«30. The Minister of Education shall prepare and submit to the Council for examination, before they are approved by the Government, the regulations that are to govern the following matters:

a) the classification and nomenclature of schools and other educational institutions, and of the diplomas conferred by them;

b) subject to the powers of the committees contemplated in section 22, the curricula, the examinations, the diplomas, the teaching certificates and the qualification of the teaching personnel, for all subjects, except subjects at the college level, those leading to a university degree and private education not leading to a diploma conferred under the authority of the Minister;

c) the coordination of education in all grades;

d) the standards for territorial division and the equipment of the educational establishments administered or subsidized by Québec.

The regulations made under this section shall come into force after approval by the Government, on the date of their publication in the

Gazette officielle du Québec or on such later date as is fixed therein.

The regulations provided for in paragraphs a, b and c shall apply to all schools and educational institutions under the authority of a department, notwithstanding any inconsistent legislative provision.

The present section does not apply to matters governed by the «Act respecting Public Elementary and Secondary Education».

Finally, section 621 of the Bill stipulates as follows:

«Any regulations made under the Education Act or under section 30 of the Act respecting the Conseil supérieur de l'éducation and applicable to any of the persons or bodies contemplated in this Act apply, to the extent they are consistent with this Act, until they are replaced, amended or repealed by a regulation made under this Act».

2° Analysis and position taken

A first point deserves attention. The text which appears at the beginning of the present Education Act: «The powers assigned by this Act to the Minister and to the Government shall be subject to the Act respecting the Conseil supérieur de l'éducation[102]» has been dropped from Bill 40.

A second point is to be noted in the «provisions of concordance» related to sections of the Bill concerning the Conseil: examination of regulations by the Conseil. Section 310 of the Bill specifies: «shall be submitted to the Conseil supérieur de l'éducation for examination before they are published in the *Gazette officielle du Québec*».

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[102] This Act covers the powers of approval and regulation of the confessional committees and the powers of recommendation of the Conseil supérieur itself.

In its present form, section 30 of the Act respecting the Conseil supérieur de l'éducation stipulates: «shall submit to the Conseil, for examination, before they are approved by the government». The two expressions do not express the same procedure.

By submitting the regulations to the Conseil for examination before they are approved by the Government, section 30, as it exists, views the Conseil as the ultimate consultative level within the education system. This function of the Conseil must be retained. Regulations should not be submitted to the Conseil's examination only before a first publication in the Gazette officielle du Québec but before their approval by the government. This observation should lead to amending section 310 of the Bill to conform with the present form of section 30 of the Act respecting the Conseil supérieur de l'éducation.

A third point concerns the actual list of regulations to be submitted for the Conseil's examination. The enumeration of items in section 310 of the Bill is specific and limited, whereas the enumeration of section 30 of the Act respecting the Conseil supérieur de l'éducation is broader and more general. The Conseil believes that section 310 should contain a similar broad and general description. Moreover, the Conseil believes that section 476 of the Bill should be deleted. Its content in effect goes much further than simple concordance.

Section 621 of the Bill concerns the regulations proper. The reference to the Act respecting the Conseil supérieur de l'éducation seems redundant in the sense that the subjects for regulation are already enumerated in this Act and in the Education Act. Regulations adopted by virtue of these two Acts will therefore remain in force until replaced, amended or repealed by the regulations adopted under the new Act respecting Public Elementary and Secondary Education. If section 476 of the Bill were adopted, the new regulations might well drafted under the Act respecting Public Elementary and Secondary Education and no longer under present section 30 of the Act respecting the Conseil supérieur de l'éducation. This would be another way of restricting the Conseil's jurisdiction.

A final important point is omitted in the «provisions of concordance» of the proposed Act respecting Public Elementary and Secondary Education with the Act respecting the Conseil supérieur de l'éducation: this concerns the very composition of the Conseil. The present law provides that «The Council shall consist of twenty-four members. At least sixteen shall be Catholics, at least four shall be Protestants and at least one shall be neither Catholic nor Protestant». (R.S.Q. Chap. C-60, sect. 2)

Is it possible to envisage the restructuring of an entire education system on a linguistic basis, while conserving a confessional character for an institution such as the Conseil? Without it being necessary to engage in a complete revision of the Act respecting the Conseil, it appears essential that the Bill readjust the Conseil's composition by henceforth placing it on a linguistic basis.

It is therefore necessary to review the relevant sections of the Act respecting the Conseil supérieur de l'éducation and proceed with the necessary amendments.

Provisions concerning the Confessional committees

1° Presentation

By virtue of sections 474 and 475 of Bill 40, sections 22 and 23 of the Act respecting the Conseil supérieur de l'éducation are amended as follows:

Section 474 of the Bill	Section 22 of the Act respecting the C.S.E.
It shall be the duty of such committees	
a) to make regulations respecting religious instruction Catholic or Protestant, Catholic pastoral animation and Protestant religious animation, in educational institutions;	c) to make regulations respecting Christian education, religious and moral instruction and religious service in the educational institutions recognized as Catholic or Protestant, as the case may be;
b) to make regulations respecting the qualifications from the point of view of religion, of the teaching staff who provide Catholic or Protestant religious instruction, and of the non-teaching staff who provide Catholic pastoral animation services, or Protestant religious animation, in educational institutions;	f) (...) to make regulations respecting the qualification of teachers responsible for Catholic or Protestant religious instruction as the case may be in schools other than schools recognized as Catholic or Protestant;

	d) to make regulations respecting the qualification, from the point of view of religion and morals, of the managing and teaching staff in educational institutions recognized as Catholic or Protestant, as the case may be;
c) to approve the curricula, text books, teaching guides, textbooks and teaching materials for religious instruction, Catholic or Protestant;	f[1])to approve, for religious instruction Catholic or Protestant, as the case may be, the curricula, textbooks, and teaching material...
d) to approve the programs and the list of objectives for Catholic pastoral animation or Protestant religious animation;	
e) to make regulations to recognize educational institutions as Catholic or Protestant, and to ensure their confessional character;	a) to make regulations to recognize confessional educational institutions as either Catholic or Protestant as the case may be, and to ensure their confessional character;
f) to recognize educational institutions as either Catholic or Protestant, and to revoke such recognition when necessary;	b) to recognize confessional educational institutions as either Catholic or Protestant, as the case may be, and to revoke such recognition when necessary;

(Concordance with section 309: the Minister may, by regulation, determine the conditions and modalities governing the consultation of parents for the request of the recognition of the confessional status of a school or an application for the withdrawal of the recognition. The Minister shall consult the confessional committees before adopting such a regulation).	
Section 475	Section 22
Such committees may:	It shall be the duty of such committees
a) advise the Minister, from the point of view of religion, on programs, textbooks and teaching material for other than religious instruction that the Minister must transmit to them before their adoption or authorization;	e) to approve from the point of view of religion and morals, the curricula, textbooks and teaching material for instruction in educational institutions, recognized as Catholic or Protestant, as the case may be.

2° Analysis

The comparative reading of these texts of law leads to several observations:

- The confessional committees are to approve, give their opion, or make regulations from the religious point of view exclusively;
- The jurisdiction of the confessional committees over the programs is henceforth limited to the programs of confessional religious

instruction and pastoral or religious animation; this jurisdiction applies to all school establishments and not only to those having a confessional status;

- The recognition process is henceforth governed by ministerial regulation concerning the consultation of parents;

- The confessional committees determine the qualification standards for religious instruction teachers and staff pastoral animators only and not for the entire staff in schools with a confessional status;

- The confessional committees no longer approve the programs, textbooks and teaching material for instruction other than religious instruction, from the religious and point of view, but may advise the Minister, from the point of view of religion, on these subjects.

Such amendments brought about by sections 474 and 475 of the Bill in certain respects restrict the former jurisdictions of the Catholic and Protestant confessional committees.

Henceforth, moral instruction in the public school will no longer be subject to the approval of either of the confessional committees, since it now belongs to the category of instruction other than religious instruction. This amendment to the Act respecting the Conseil supérieur de l'éducation will allow the development of autonomous moral instruction in the public school, even when the school is recognized as Catholic or Protestant.

Approval by either of the Catholic or Protestant committees, solely from the point of view of religion, is narrower in scope than previously and thus sets off each committee's respective confessional character.

As for the qualification of personnel other than personnel providing religious instruction or pastoral or religious animation, they remain under the general qualification standards within a school educational project guaranteeing respect for the rights of all.

3° Position Taken

The Conseil is not in a position to make any specific recommendation concerning paragraphs e) and f) of section 474 concerning the power conferred upon the denominational committees «to recognize educational institutions as Catholic or Protestant and to revoke such recognition when necessary».

Regardless of this power of recognition, the confessional committees already possess important regulatory powers. They have jurisdiction over the education policy or «régime pédagogique» concerning Catholic or Protestant religious instruction, over auxiliary services for Catholic pastoral animation or Protestant religious animation, over the quality of such services and the qualifications of personnel providing such instructional or auxiliary services. They may even give their opinion, from the point of view of religion, on programs, textbooks and teaching material for instruction other than religious. Conferring such jurisdiction on the denominational committees will allow them to control, supervise and promote the subjects which are their concern.

As for the power of recognizing confessional status for schools, such powers being considered essential by some, distriminatory by others, the Conseil has noted the implications, without drawing any conclusion.

A final point should be emphasized concerning the confessional committees: the Legislator could indicate whether it is still appropriate to link them with a non-confessional body such as the

Conseil supérieur de l'éducation.

The Public Protector Act (sect. 563)

The Bill delegates powers «to the assistant to the Public Protector or to his officials and employees in the case of investigation made under the Act respecting Public Elementary and Secondary Education». For its part, the White Paper had suggested the idea of a pupil's Protector, or ombudsman.

Section 563 seems more appropriate since it considers pupils as citizens whose rights are protected by the same law. It was unnecessary to create a new post to provide legal protection for pupils.

CHAPTER 10: «Transitional provisions»*

Taxation without a vote?

The Bill authorizes the collection of taxes without first having the electors' approval in the following cases:

- A new school board wishes to levy a special tax to make up any deficit of an existing school board (sect. 602);
- An existing school board wishes to pay its bonded debt (sect. 603);
- The body established to exercise the powers of the Conseil scolaire de l'Ile de Montréal wishes to obtain, in addition to the government subsidies, the funds required for the amortization of the principal and the payment of interests on the bonds of the said Conseil (sect. 609).

The Conseil believes that in all such cases, taxation should have set and precise limits. Any desire to exceed such limits should be subject to approval by means of a referendum.

School Confessionality

Section 611 of the Bill stipulates that «every school shall retain the confessional status it had on July 1, 1985. It shall, within three years, apply for the renewal or revocation of its status as a Catholic or Protestant school. If the school fails to do so, it loses its confessional status».

It is in order to briefly review what has happened in the last few years. All public schools in Québec have been recognized as Catholic by the Catholic committee in 1974, or as Protestant by the Protestant committee in 1975. The then existing schools were declared to be confessional, whereas schools established after these dates, not being subject to this declaratory mode of recognition, could request denominational recognition by rogatory mode. The latter mode of recognition will become compulsory from the date of sanction of the Act for such schools as are not already recognized as Catholic or Protestant (sect. 32). For those schools which are already recognized, section 611 will apply during the interval starting July 1, 1985 and ending July 1, 1988: the school may request the renewal or the revocation of its recognition. As of July 1, 1988, section 32 will apply to all schools.

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* Chap. XL, Div. II.

Considering that the Conseil was not in a position to express any opinion on the school's denominational status, it is consequently reasonable for the Conseil to abstain from taking a position on section 611 of the Bill.

CONCLUSION

The Conseil has tried to examine the plan to restructure the school system in both its aspects as an educational plan and as a plan for society.

Bill 40, an Act respecting Elementary and Secondary Public Education, constitutes an impressive undertaking to revise the education laws. Such an undertaking was judged necessary so as to better adjust school organizational structure to the new needs of society and the educational experience of the schools. The government's proposal has given the Conseil the chance to complete and enlarge upon its August 1981 study. The plan to restructure the school system tends to create new relations not only in the confessional area, but also at the levels of school pedagogical activity, school board pedagogy and administration, and government general educational responsibility. In short, such a plan invites all participants in the education system to take part in realizing a collective project. Without a minimum of collaboration, the school restructuring plan might never be realized.

The Conseil's study of Bill 40 has led it to express its agreement with a number of aspects of the Bill. On the other hand, the Conseil believes that the plan to restructure the school system must be amended in a number of other important aspects if it is to become a plan both for education and for society. In this regard, the Conseil's recommendations form the real conclusion of the present study: the Conseil invites the government to amend its plan so that it is made to appear feasible for the majority of those who will be involved in its implementation and so that it encourages acceptance and creative involvment rather than rejection or indifference.

In consequence, the government and the Ministère de l'Éducation, in collaboration with the participants in the school system, must accomplish the following tasks:

- Show greater trust in the participants - whether parents, teachers or administrators - who have acquired enough maturity and competence to enable them to help rather than hinder the exercice of the demanding and essential role of the government in education.
- Ensure respect for the rights of all, particularly in regard to school confessionality;
- Provide, through regulations, means of assistance to the school communities in order to give greater responsibility to all participants, particularly those who are most involved in day-to-day school activity.

Provided the restructuring plan is based on respect for the rights of all, as well as on the contribution of participants who wish to work together to serve education and society, it may then meet with success.

RECOMMENDATIONS

a) The school

The Conseil believes that the goal of Bill 40, which is to decentralize powers in favor of the school, can be achieved only through giving more responsibility to participants in the school. The Conseil believes that, as the roles and functions of both school and school board are closely linked, achievement of the school's goals will be furthered, if the roles and powers of each group of participants and each organization are clarified.

- Establishment of the school

  The Conseil recommends:

  . that when establishing the school, the school board indicate only the composition of the school council and not determine the number of its members;

  . that the moratorium on school closings begin on the date of official sanction of Bill 40;

  . that specific criteria be determined by regulation for the establishment of schools. These criteria will thus be known to all and will act as sure guides either for those asking that their school be kept open or for those in charge of recognizing institutions.

- Composition of the school council

  The Conseil recommends:

  . that the school council be authorized to determine on its own accord the number of its members, provided this number does not exceed 14, as determined by Bill 40; that the Act require a minimum of five voting persons at the elementary level and a minimum of seven voting persons at the secondary level;

- that the government make provision for an arrangement whereby members can be rotated, in order to ensure a degree of stability on the council;

- that instead of an elected commissioner, the other members of the school council may choose, if they so desire, at least one representative of the community, such a representative being a resident of the district or school territory. The school council will thus be able to rely more on the contribution of people from the community having no «direct interests», either as consumers or as employees, in the decisions taken by the school.

- Functions and ressources of the school

The Conseil recommends:

- that division V of Chapter III of the Bill be revised so that the functions of the school, the school council, the principal and the teachers are clearly distinguished;

- that, in particular, the said Division V provide for the full participation of teachers in the school's education committee concerning decisions on questions of an educational nature: adaptation of programs, choice of teaching methods, choice of textbooks and teaching material, and evaluation of pupils' learning achievement. On these questions, in case of disagreement on the part of the school authorities, the final decision should be made either by the school council or the school principal, according to whether it is a matter of policy or ordinary administration.

- that the delegation of powers concerning human, material and financial resources, by the school and the school council to the school board, be of a temporary nature;

- that the school's educational project be viewed as part of a province-wide education policy and that, in consequence, it cannot be confined to strictly local considerations;

- that the school and school board collaborate in the evaluation of the education policy which the Ministre is to make from time to time;

- that section 119 be amended in order that the school may make contracts in its own name, within the limits of its budget estimates and, where appropriate, in accordance with the employment norms of the school board;

- that the government indicate clearly whether it intends to respond to the recommendations of the Jean Commission, and whether it intends to present a separate adult education Bill; otherwise, Bill 40 must give the adults the full attention they deserve in a community school;

- School committees

The Conseil recommends:

- that the government encourage the setting up of school committees, such as the parents' committee, the education committee and the pupils' committee;

- that the government broaden the jurisdiction of these committees so that they are consulted on the criteria and methods for evaluation services, pupils' learning achievement, and staff; that, in particular, it broaden the jurisdiction of the education committee by allowing teachers to participate in decisions about pedagogical matters, as the Conseil previously recommended.

- The school principal

The Conseil recommends:

- that the government make it clear that the school principal is an educational leader, supported by the consultative committees of the school and able to obtain, when necessary, administrative assistance;

- that the duties and functions of the school principal be defined, bearing in mind his dual role regarding the school and the school board;

- that any delegation of powers by the school council to the school principal should only be partial and provisional;

b) The school board

The Conseil considers the school board to hold a pivotal position between the schools and the ministère de l'Éducation; the school board is a regional center which provides common services and plays a coordinating role with respect to both human resources and educational services. As it is at the same time an education and an administrative body, the school board should group parents together - the latter having prime responsibility for children's education - as well as citizens interested in the development of education in society. The Conseil believes a school board must be able to reconcile each of its schools' particular interests and to work in collaboration with the schools in its administrative territory.

- Composition of the board of directors

  The Conseil recommends:

  . that the board of directors of the school board be composed of approximately 15 members, comprising: representatives elected by the school councils and citizens elected by universal suffrage, the former being the majority;

  . that school board staff be eligible, by way of universal suffrage, to sit as commissioners in other school boards;

  . that the commissioners' mandates coincide with the mandates of school council members, both mandates to last two or three years.

- Functions and resources of the school board

  The Conseil recommends:

  . that the pivotal position of the school board be clearly established so that it may act as the sole employer and the public body in charge of planning and distribution of educational services on a given territory;

  . that the school board's planning and coordination role be clearly defined in relation to certain functions of the school, such as determining the school calendar, setting up programs outside of the official curricula, and evaluating the pupils' learning achievement;

- that the appointment and evaluation of the school principal, as well as renewal or revocation of his mandate, clearly fall under the jurisdiction of the school board and that in this regard, the school council be entitled to make recommendations;

- that parents be able to choose their school, taking into account what the school board can do, and provided that the choice is genuine and does not give rise to intolerance in the schools;

- that section 229 concerning staff transfers be amended to conform with existing provisions in collective agreement and administrative policies;

- that the school board draft, on the recommendation of the advisory committee on services for pupils who are socially maladjusted or have learning disabilities, criteria for the provision of services to those pupils to facilitate their integration into regular classes;

- that the government find out how to solve the problems arising from the overlapping of linguistic school board territories before statutorily enacting the procedure for equitable collection and redistribution of school taxes;

- Committees of the school board

  The Conseil recommends:

  - that the following two committees be added to the school board committees prescribed by the Bill: an education committee composed in majority of teachers and, where necessary, a committee for the economically underprivileged;

- that the management committee bring together all school principals in the school board's territory.

c) The government and the ministre de l'Éducation

The conseil wishes to reaffirm the general responsability of the State in education and the specific responsibilities of the other institutions in the school system. The Conseil therefore believes that any reorganization of the education system should rely on the collaboration of all participants in education. The Conseil believes that the school boards must be the prime regional bodies where guidelines are established, means of applying policies and regulations determined, collaboration obtained, resources allocated and disputes heard and settled. Finally, the Conseil wishes to emphasize that there is much wisdom and expertise to be found throughout the school system.

The Conseil recommends:

- that the government show more flexibility in the regulations it adopts, particularly those regarding pedagogical matters;
- that the organization set up to improve the quality of teaching materials evaluate and recommend rather than produce;
- that cases of suspension and revocation of teaching permits be first dealt with by the school boards and that when revocation of a permit is sought, the school board refer to the Ministre, who will see to it that the person concerned is heard;
- that the Ministre determine a framework within which a certain degree of latitude is given to the school boards to spread their budgetary deficits or surpluses over a number of years;

- that the Ministre's power to investigate a school board and place it under trusteeship remain under governmental jurisdiction;

- that the proposed regulations related to Bill 40 be published without delay;

d) School confessionality

In agreement with Bill 40, the Conseil believes that the school must first of all be public and common. The Conseil believes that the rights of all must be respected, particularly those of religious or non-religious minorities. It believes that school confessionality must be considered from the viewpoint of school experience rather than of organizational structure. However, the Conseil is not in a position to state whether the public school should or should not have a confessional status recognized by the Catholic committee or the Protestant committee.

The Conseil redommends:

- that the school offer its pupils a choice between religious instruction and moral instruction, in accordance with the following requirements;
  - that the public school offer all pupils moral instruction in accordance with the official program of studies;
  - that religious instruction offered by the school to the pupil as a choice must be subject to the guarantee that compulsory objectives are reached and that the compulsory contents included in the official programs of studies regarding moral instruction are acquired;
  - that this condition should be considered as a subject for

decision by the school council, which will determine when religious instruction may be offered for the pupils to choose, and which will determine whether such instruction may replace moral instruction, as is the case for Catholic or Protestant religious instruction;

- that a school's educational project may include moral and religious values related to a particular faith:

- that the exercice of a teacher's right to refuse to give confessional religious instruction on grounds of freedom of conscience be exempt from any form of discrimination, particularly in schools which have requested and obtained confessional recognition;

- that, in connection with section 81, dealing with the religious qualifications of personnel assigned to Catholic or Protestant religious instruction, the general terms regarding the qualifications of personnel, particularly those concerning moral instruction or any religious instruction, whether Catholic, Protestant or non-confessional, be repeated;

- that the law provide for animation including activities corresponding to the official program of studies for moral instruction as well as animation for any religious group with which the school council has entered into an agreement providing for a particular kind of religious instruction;

- that school boards may hire a person responsible for providing support to the schools, for moral instruction as well as a person responsible for providing support for religious instruction after agreement with the Churches or groups concerned; that the government accordingly amend section 220 of the Bill so that it not apply to one Church only;

- that the school boards take steps to ensure the respect of minority rights in all of their schools;

- that sections 474 and 475 of the Bill be adopted, notwithstanding that the Conseil is unable to take position on paragraphs e) and f) of section 474 concerning the powers of the Catholic and Protestant committees related to the confessional recognition of schools;

e) Linguistic organizational structures

The Conseil believes that linguistic organizational structures constitute an acceptable historical compromise. The Conseil believes that schools and school board using the same language can ensure the best possible coordination by operating in a favorable cultural environment.

The Conseil recommends:

- that the new school boards have a linguistic status;

- that Catholic and Protestant citizens reject the proposed confessional enclaves which would result from the territorial limits of 1867 and that, together with the competent school authorities, they endeavour to find a better solution than that of confessional school boards practically without clientele.

- that the governement study the proposal of the anglophone groups to create zones that would permit the development of the anglophone community under new linguistic school boards;

f) Integration of school boards

The Conseil believes that the process of integrating elementary and secondary school boards, which is already under way, should continue and be completed. The new school boards will bring the elementary and secondary schools in the same territory together and so will be in a better position to reach the educational goals, pursued in collaboration with the schools.

The Conseil recommends:

- that the elementary and secondary schools be grouped together under the new school boards.

g) The Act respecting the Conseil supérieur de l'éducation

It is essential that a body such as the Conseil keep its characteristic of being the ultimate consultative authority in the education system. The Conseil also believes that the composition of such a body must be adapted to an education system reorganized along linguistic lines.

The Conseil recommends:

- that the intent of section 310 of the Bill be rewritten to conform with section 30 of the Act respecting the Conseil supérieur de l'éducation and that section 476, which limits the Conseil's well-recognized jurisdiction, be deleted;

- that the governement revise and amend the relevant sections of the Act respecting the Conseil supérieur de l'éducation (R.S.Q. Chap. C-60) in order that the composition of the Conseil be governed by linguistic instead of confessional criteria.

h) Implementation

The Conseil believes that a restructuring of the school system of the magnitude of that proposed by Bill 40 must be implemented with the ulmost prudence and must rely on the collaboration of all participants, notably the existing school boards.

The Conseil recommends:

- that the composition of the Implementation Commission be based on the recommendations of the groups represented, which should include teachers;
- that the members of the Commission's executive committee be chosen by the members of the commission themselves;
- that the chairman of the Implementation Commission and the chairman of the Implementation Committee be appointed after consultation with the members of the respective bodies;

i) Transitional provisions

The Conseil believes that the government should approach the transitional provisions of the Bill with the same open-mindedness as it does its permanent provisions.

The Conseil recommends:

- that in all cases where taxes may be levied during the implementation period, such taxes should have set and precise limits. Any requirement to exceed such limits should be subject to approval by means of a referendum.

Finally, considering that the Conseil is unable to express an opinion on the school's confessional status and on the powers of recognition of the Catholic committee and the Protestant committee in particular, the Conseil will also refrain from taking a position on section 611 of the Bill concerning the confessional recognition of schools as of July 1, 1985.

Dissenting Opinion of Mr. Daniel Baril, on the Issue of Confessionality

I am compelled to dissent from the Conseil's opinion on the issue of confessionality because of:

- some obvious points that the study failed to consider;

- the basic argument, with which I cannot agree.

1. Some points overlooked in the Conseil's recommendations

The Conseil acknowledges that Bill 40 accentuates school confessionality; it can therefore be expected that the problems raised by confessionality ipso facto will become «accentuated». On the other hand, the Conseil's recommendations aim not to reduce discrimination resulting from confessionality but rather to reduce religious disparities created by the Bill. The Conseil's choice is therefore to offer all religious groups privileges until now reserved to Catholics. In my opinion, this is a dead end which can only lead to an aggravation of already serious conflicts. The importance given to religion at school exceeds expectations and seems even to exceed the place it holds in society as a whole.

The Conseil's approach causes it to ignore a number of problems to which it does not seem to have given proper attention:

- kindergarten: the «logic» of confessionality throughout the school system would extend confessionality to the pre-school level. The most deplorable situation which now exists at the elementary level might therefore spread to the pre-school level, perturbing the atmosphere there.

- teachers: the exemption provisions of sections 79 and 80 appear unsatisfactory, since similar provisions in the Catholic Regulation have shown themselves to be practically inapplicable. It is essential to keep religious instruction as part of the regular task of the home-room teacher?

- pastoral care: I consider it to be unrealistic and undesirable that the school should set up three - or more - distinct and competitive animation services offering their activities to particular school clienteles. What educational goal corresponds to such a compartmentalization of school life?

- religious instruction and moral instruction: is it possible to realize the hoped-for coordination between the goals and contents of these programs without distorting the basic features of their respective teachings?

- lay school: while claiming to respond to popular expectations, the Conseil makes no recommendation of the possibility of creating lay schools. Does this type of school not correspond to an expectation as great as the multi-denominational school preferred by the Conseil?

2. The basic argument

The Conseil accepts religious instruction at the school, pointing to the educational approach of its previous recommendations on confessionality. The following point must be made: the educational aspect of religious instruction resides in awakening humanistic, or moral values; this must not distract us from the raison d'être of this teaching which remains the awakening of faith. Such a catechic aspect concerns the transmission of faith and doctrine and does not properly belong to the field of education but of personal conviction. Such an inherent aspect of religious instruction and pastoral care has no place in the schools. It would be abusive to consider it as an integral part of an education program. Its integration into school life, its introduction among academic subjects, is a cause of discrimination, injustice and inconsistency. The educational aspect of such instruction can quite easily be provided by moral instruction.

Organizing a school system based on adhering or not to religious beliefs always generates discrimination, division and conflict. Consequently, religious rites, pastoral care, confessional religious instruction and everything related to the instigation of faith should be gradually eliminated from the schools. Freedom of conscience for all, respect for individual beliefs, social justice and a healthy for individual beliefs, social justice and a healthy administration of resources demand a lay school system. Such a system in no way affects the right to freedom of religion.

The obvious result of the disappearance of the confessional character of the school system is the lapsing of the relevant structures and services (confessional committees, religious instruction consultants, confessional status, etc.).

DISSIDENCE - Lucien Rossaert, Vice Chairman
Conseil supérieur de l'éducation

Disagreeing with one's colleagues is always difficult. The debate within the Conseil supérieur de l'éducation was, without any doubt, conducted in a context of mutual respect. It would have been desirable to be unanimous on the issue of school restructuration; but such was not the case. The expression agreeing to disagree applies in this situation. I must point out that personally, I very much appreciate the respect and the comprehension that the Chairman of the Conseil, Claude Benjamin, unequivocally showed: each has the right to express his views. I must also indicate the deep respect that I have towards all members of the Conseil; even in disagreement we knew how to work in friendship.

Even in the best of times it is never a simple matter for an organization to be in agreement on a subject as vast and as complex as the Québec school system. In comparison to other administrative sectors, such as the business community, Québec's school system covers a vast territory from the Gaspé Coast to the Ottawa River and, as well, involves diverse populations with a variety of needs. For this reason, if one is to be objective, concentrating on any one particular issue, such as school structures, is no easy matter. What is truly of importance is what we accomplish on a daily basis to make secure the future of our young people studying in some 2500 school buildings. This is as important, if not more important, than any projected reform. If we are to keep in mind that the development of young people is the true purpose of an educational system, we must look beyond the emotions and concerns surrounding any single proposal.

Since 1960 the Québec school system has had a high profile in public debate; the cacophonous mixture of legislation, regulations, policies and instructions with the resulting increase in judicial challenges has many parents and educators concerned:

- educational regulations (régimes pédagogiques),
- new policies on pupil personnel services,
- new programmes for all levels and all subjects in both elementary and secondary levels,
- new policies on vocational education,
- reform on school transportation,
- collective negotiations,

... to name but a few. Each of these is a major undertaking. Implemented together, they could create a crisis. The addition of a major proposal such as «restructuration» could very well result in a breakdown of the system. So much for the difficulties!

The successes seem harder to perceive. But, there are positive developments that merit recognition. Our institutions are rising to the challenges. The introduction of new programmes is proceeding even though the promised support materials are not always available. The battles against pupil disinterest, vandalism and violence are being won. Let's give credit where credit is due: our school boards, our administrators and our teachers are succeeding in spite of many difficulties.

Frankly, one must be skeptical of any insistence that today's multitude of problems can be solved by one proposal to change structures.

QUALITY AND DEDICATION

Has the school system failed? Is it falling apart? Some may say yes. But, evidence points to the conclusion that, in fact, the system has been successful. In recent years, the most significant reality has not been the weakening of the system, but it has been the astonishing vitality in maintaining quality education in spite of the major change which began some twenty years ago.

To say that the Minister of Education's proposal is unacceptable is unjust. The pain and the burden of many failures in some areas decidedly need the Minister's attention. On the other hand, for the

Protestant system, whose quality is recognized throughout North America - the reward for good work and quality education is destruction.

During the last twenty years, in spite of astounding pressures, the Protestant system has evolved and adapted to Québec's new directions and at the same time has kept up with North American trends - continuous progress, individualization of learning, subject promotion and, more recently, computer technology - to name a few.

FUNDAMENTAL PRINCIPLES

Québec tradition in the educational community rests on respect for the diversity of traditions, on democratic administration and on quality education. The following principles are essential to the preservation of a democratic school system:

1) Local Democracy and Universal Suffrage

Citizens have the right to directly elect commissioners to hold office on public school boards having the authority and means to manage and maintain schools according to the needs and priorities of the communities these Boards serve.

2) Balance of Powers

A balance of powers is required between the authority of the state and that of school boards in order to allow said school boards to undertake initiatives without administrative interferences.

3) Division of Jurisdictions

School boards and municipalities must be independent of each other so that objectives and essential educational needs will not be compromised by, nor in competition with, municipal priorities.

4) Taxation Powers

School boards have the right to tax members of the communities they serve, thereby increasing their capacity to answer the needs and objectives expressed, in order to equitably distribute over their territories: educational services, pupil personnel services and auxiliary pupil services.

5) Accountability and Consultation
School boards, in addition to their accountability to the State, are directly accountable to electors for the use of public funds. Furthermore, electors have, as such, the right to consultation on all educational policies. Because of their proximity to their communities, school boards constitute an effective link between organizations in the process of democratic consultation.

6) Constitutional Right and the Right of Diversity
Québec's Catholic and Protestant citizens possess the constitutional right to maintain and to develop their own educational systems as well as the natural right of any religious, cultural and linguistic minority to dissent from instruction that might be in conflict with their beliefs.

7) Services
Each community, through its school board has the obligation, the responsibility and the right to adapt, to develop, and to enrich provincial programmes to better meet local needs regarding educational services, pupil personnel services, auxiliary pupil services.

8) Stability of Personnel
Stability of employment for school board personnel must be maintained in order to guarantee continuous and harmonious implementation and adaptation of educational programmes, pupil personnel services and auxiliary pupil services.

9) Planning and Cost
The context of budgetary restrictions requires an accurate evaluation

of any reform. Consequently, any proposal must include detailed planning in order to foresee the necessary financial resources. An alert society must ensure itself that it can sustain the costs implied by any reform.

SHORT-TERM SOLUTIONS

Any proposal or advide that is contrary to these fundamental principles cannot receive my support. I am therefore of the opinion:

1. that the proposed law of the Government of Québec entitled «An Act Respecting Public Elementary and Secondary Education» must be withdrawn;

2. that the lack of explanations and detailed analysis relative to the costs on the proposed «Act Respecting Public Elementary and Secondary Education» leaves much to be desired; that certain studies indicate an increase in costs to finance the said project; that without definite proof that costs will diminish, this project cannot be considered;

3. that the lack of detailed explanations relative to forthcoming regulations during the eventual implementation of the «Act Respecting Public Elementary and Secondary Education», once again, leaves much to be desired; that without clear explanations on the implication of the said forthcoming regulations the population of Québec is left without truly knowing the extent of this project; that the fact that the said regulations may be changed at any time instills concern in many communities;

4. that the structure for confessional school boards must be retained throughout Québec as being, for the moment, the best protection for Québec traditions such as foreseen in Article 93 of the British North America Act;

5. that while remaining within the existing structures any change in school structures must be guided by firm constitutional guarantees;

6. that the Superior Council of Education Act must be maintained in order to respect the actual confessional composition of the said Council;

7. that the status and function of the associate deputy ministers for the Catholic faith and for the Protestant faith, as well as the assignments of directorates and services that are attached to them, must be maintained according to the existing laws and procedures;

8. that the principle of open and continuous consultation, by the ministère de l'Éducation with parents, electors, educators and commissioners must better take into account the wishes of the community before making decisions;

9. that the responsibility for education at the local level be the responsibility of commissioners democratically elected by universal suffrage; that the said commissioners must be elected directly to hold office on the school board;

10. that the existing structure for school boards, through their Educational Services Departments and Pupil Personnel Services Departments, have the control and management of educational programmes as well as pupil personnel services and auxiliary pupil services; that the fulfilment of these services answer the needs of local communities;

11. that existing structures continue to be the route of implementation for the new educational regulations (régimes pédagogiques) since consultation for the said régimes, as well as the conception of many articles of the said régimes, were considered and planned as being the responsibility of the existing school boards when Decrees

551-81 and 552-81 were sanctioned on February 25. 1981;

12. that a power of taxation must be given to school boards so as to satisfy the educational goals formulated by the communities which they serve;

13. that an amendment to the law is necessary to improve the electoral system for commissioners of existing school boards (propitious moment of the year to hold elections, allocation of time for campaigning, funding necessary to campaign, etc.);

14. that in order to save money and resources, it is generally agreed that the number of existing school boards can be reduced; that the integration of local and regional school boards, within existing structures, must be effected without delay;

15. that territorial arrangements for special cases, in order to ensure a better quality of education, be maintained - Ex. the Two Mountains - Joliette territory of the Laurenval School Board and the Harwood territory of the Lakeshore School Board);

16. that new territorial arrangements be effected solely for the purpose of maintaining quality education or to ensure better quality education; that, in this regard, the government proposal presented in the document entitled Le choix des régions declares «that all ministries and organizations that offer services or programmes be regrouped in a unique territory of concertation ...»[1] and thereby seems to indicate that the proposed Bill 40 is merely the first of two phases for school restructuration;

17. that regulations for agreements between school boards of different confessionalities be revised in order to ensure adequate representation

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[1] See Le choix des régions, Document de consultation sur le développement.

to the parents who send their children to a school board whose confession differs from theirs;

18. that the existing laws be expanded so that groups of parents and taxplayers may organize and administer schools on the basis of language (French or English); that when schools are thereby established in a school municipality, the law permit these schools to be administered by a corporation created for this purpose and that these corporations be established on a linguistic basis (French or English); that the law hereby amended bind Catholic or Protestant school boards, according to the case, to cooperate with the organization of the said new corporations;

19. «that the Minister of Éducation pursue legal action already undertaken, following the decision rendered by the Superior Court on the Notre-Dame-des-Neiges school, and that he make clear to the population the possibilities and limits of the law as it stands, particularly for the neighbourhoods under the Commission des écoles catholiques de Montréal and the Commission des écoles catholiques de QUébec governed by section 93 of the British North America Act»[2]; that the Minister of Éducation pursue legal action in order to obtain a declaratory judgement on the question of confessionality in the schools.

DEVELOPING NEW ATTITUDES

Authorities responsible for education must seek to create a set of structures and regulations which will last beyond three or four years ans which will encourage and enable teachers to do the job. New positive attitudes are required. Some critical decisions must be made before tackling new projects.

What are these critical decisions? Here are at least six:

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[2] See Confessionality and the Schools of Québec, 1981, Conseil supérieur de l'éducation, Québec, page 40.

I. Treatment on a long term basis must be accepted as fundamental. The cry for order reveals dissatisfaction with short term solutions. What is desired is long term stability.

II. The inflation of reforms is a most acute difficulty. This desease must be cured. What the public wants, at this time, is relative calm and stability. Existing reform projects must be put into order before considering others. What the public wants is an end to a crisis management style of administration.

III. All levels in the educational milieu must realize that they have a contribution to make - government, school board and educator. Failure will result if one of these sectors puts narrow self-interest ahead of interest for young people. Ultimately, true interest for the needs of young people is our best self-interest.

IV. The government and educational institutions must conduct thorough studies on the direct and indirect costs relative to any proposal for school reform. Public documents that announce a reform or change should contain pertinent information on the feasibility and costs of such projects.

V. Concerted effort is required by government, school boards and educators in order to ensure quality education without major upsets. Respect for traditions is imperative. The only criterion to invoke is our prime objective - the child.

VI. Government, educational institutions, and educators must cease attacking each other on matters under question. The battle for power is no solution. Personalized debate solves nothing. Proposed laws that risk court challenges must be avoided. Frank and open consultation based on the facts and the issue is the only way to make progress.

All this is easier said than done. But, when we can enter a period of meaningful consultation and true involvement of the community, we will be entering a period of stability and satisfaction. The burden of excessive bureaucracy needs to be replaced by true meaningful consultation. Meaningful consultation not only implies that local communities are heard; but also that their views are faithfully taken into account at the decision-making level. Such respect for authentic involvement is truly a commitment to excellence.

CONCLUSION

Any position on any complicated topic can lead to over-simplification. The temptation, when considering a project such as school reform, is either to make the mistake of the pessimist: «The end of the world is upon us» - or the mistake of the optimist: «This is the beginning of new prosperity». Neither extreme merits support. Furthermore, there is no satisfaction in being complacent. Those who believe they are on the right track and who do not look over their shoulder can be run over. The only way to cope with change is to help create it. But, how can members of minority communities contribute to overall reform when the process itself destroys them?

This position is not in defense of the status quo. It is based on the strenghts and potential of a community, its members and its institutions. The minorities dare not deny the impact of Québec reforms over the last twenty years. But that is not the point.

The point is: What direction must the minority communities take in the educational sector? What must educators from these communities do in order to become equal partners within the context of Québec reforms? How can educators of these communities utilize their system of quality education, that presently exists, towards creating new horizons? Will the tradition of Québec minorities to respect quality education and to work in this direction be in turn respected? The injustice of this situation rests on the fact that the answers to these questions seem to be coming from outside the minority communities.

One must realize that the strength of a society is not based on a uniform system or by uniform approaches. The possibility for individual growth, without negatively affecting the growth of others, is the strength of a collective society. This principle is basic to democratic pluralism.

A pluralism that is truly democratic is well detailed in the preamble to the Loi du ministère de l'Éducation and, as well, the Loi du Conseil supérieur de l'éducation:

> WHEREAS every child is entitled to the advantage of a system of education conducive to the full development of his personality;
>
> WHEREAS parents have the right to choose the institutions which, according to their convictions, ensure the greatest respect for the rights of their children;
>
> WHEREAS persons and groups are entitled to establish autonomous educational institutions and, subject to the requirements of the common welfare, to avail themselves of the administrative and financial means necessary for the pursuit of their ends;
>
> WHEREAS it is expedient to establish, in accordance with these principles, a department of education with powers commensurate with the functions vested in a superior council of education, its Catholic and Protestant committees and its boards.

If we care what our children and our children's children will say of us - if we want them one day to be grateful for what we did during this challenge against our traditions, we must work together to preserve and apply these principles proclaimed in the preamble to the Loi du ministère de l'Éducation and the Loi du Conseil supérieur de l'éducation. There is one choice: saving the principles of pluralism and respect for diversity. This is the challenge for all Quebecers; not just in this year, or in this decade but in the new century and beyond.

DISSIDENCE de Mme Joan Fitzpatrick

I wish to record my disagreement with the report prepared and adopted by the Superior Council of Education on «La restructuration scolaire - loi sur l'enseignement primaire et secondaire public» (projet de loi 40).

The plan for the restructuration of the school boards is completely unacceptable to the majority of the protestant community. Confessional school boards, elected by universal suffrage, ensure the democratic expression of all Quebecers within their respective communities in matters of education. These duly-elected school boards serve as an intermediate authority between the state and the school, and their elimination will silence the established voice of the community in educational matters.

The proposed dismantling of established school structures erodes the right of confessional education, guaranteed by article 93 of the Constitution Act of 1867. We believe that the denominational rights include the right to maintain and operate schools, the right to levy taxes in support of these schools and the right to decide how these schools will function.

The Quebec protestant school boards have developed educational systems that have served their communities well and in which they have both confidence and pride. They are not opposed to educational reforms as has been clearly indicated by numerous innovations and adaptations to change that have been developed in response to community needs throughout the years. However, radical changes to the existing structures, as proposed by Bill 40, are both unnecessary and ill-advised. It is our belief that changes should evolve gradually, from the needs of the individual communities, within the existing structures.

The ominous trend towards increased centralization of educational policy-making and control at the provincial level is unacceptable. School will be responsible only for the implementation of policies and decisions made by the ministry, rather than by the individual school boards. We consider that this presents a serious loss of opportunity for the evolution of local initiatives and diversity that have developed so successfully within the present structures.

We believe in and demand to retain the legally constituted confessional boards as established and protected by law. This right of our community forms a basis of support for its continuation and is a right that we wish to preserve.

As I strongly disagree with the dismantling of the existing school board structures, I cannot therefore agree to the adoption of this report.

DISSIDENCE de Mrs. Constance Middleton-Hope

In keeping with previous positions of the Comité protestant, I must record my dissidence with regard to the advice of the Conseil supérieur de l'éducation.

The linguistic division advocated by the government plan and endorsed by the Conseil militates against the constitutional guarantee which provides the pledge of a confessional guarantee for Protestants. Protestants are aware that they have their own way of expressing their confessionality and take pride in a long tradition of excellence in education and of finding a basis on which to work together with different groups whom they have welcomed into their schools. They are not convinced that the guarantees offered by the legislator are other than short-lived rhetoric.

Subsequently, the Conseil supérieur, fearing that the rights of some would be abrogated, suggested an even further move into fantasyland by extending to any group the religious instruction which they want after they secure support at the level of the so-called «linguistic» school board. The Conseil attempted to reconcile all the different elements which make up our society; the fact remains, however, that in real everyday life Protestants are deprived of the school boards which are the heart of the system which they have built over 200 years and will find themselves marginalized in several areas of the province. In vain we speak of the rights of all, for we will end up taking away from Protestants their own schools in favor of new school groupings which we do not yet know and have difficulty understanding.

If the Conseil had suggested local experimentation, I would have agreed that in certain areas pilot projects of a linguistic board with confessional school guarantees would be valid. It is the attempt to impose a single model on the Protestant community which strikes me as abnormal. This milieu has evolved in accordance with the needs expressed by its different clientele as well as in accordance with the social trends which change the standards of society at large. The Protestant community feels threatened by endless tinkering which attempts to deal with the problems of another tradition, that of the Roman Catholic diversity. Protestants feel more closely allied to each other's traditions even while experiencing the trend of evangelism which stirs its American and its other Canadian counterparts.

Moreover, I regret that the Conseil omits any mention of the fact that Bill 40 proposes to reduce the powers of the confessional committees, in particular those of the Comité protestant.

Edité par la Direction des communications
du Conseil supérieur de l'éducation

50-324A